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SECOND GENERAL ASSEMBLY

1st Session, January, February, March, 1803 - - - 27 laws.

ACTS OF THE SECOND GENERAL ASSEMBLY

Passed January, February, March and November, 1803 by the Legislative Council and House of Representatives in General Assembly Convened.

1. An Act to amend an act entitled "An Act to empower the County Courts of the several Counties in this Territory to order the laying out public Roads, and establish and settle Ferries, and to appoint where Bridges shall be built."

2. An Act for the distribution of the Estates of Persons who die not leaving property sufficient to pay all their just debts.

   Nos. 1 and 2 originated in the House of Representatives and were approved January 27,1803.

3. An Act concerning Indians.

4. An Act concerning forcible entries and detainers.(1st pg.missing)

5. An Act concerning Notaries Public.(Originated in the Council.)

   Nos. 3,4 and 5 were approved February 10,1803. Nos. 3 and 4 originated in the House.

6. An Act to amend the Act entitled "An Act to establish a College in the Mississippi Territory."(Originated in the Legislative Council.) Approved March 4,1803.

7. An Act supplemental to an act entitled "A Law to render promissory notes and cotton receipts negotiable and for other purposes", passed by the Governor and Judges the 30th day of October A.D. 1800.

8. An Act creating the Offices and defining the duties of Territorial and County Treasurers.

9. An act respecting Conveyances.

10. An Act for the more easy partition of lands held by coparceners, joint tenants, and tenants in common.

11. An Act concerning strays, for improving the breed of horses, to prevent the Stealing of Cattle, and directing the brands and marks thereof to be recorded.

12. An Act to regulate Taverns and restrain tippling Houses.

Nos. 7,8,9,10,11 and 12 originated in the House of Representatives and were approved March 4,1803.

13. An Act to amend An Act entitled "An Act for establishing a Militia in this Territory."

14. An Act to erect the Town of Natchez into a City and to incorporate the same.

15. An Act authorising certain repairs to be done upon the Jail of Natchez.

16. An Act concerning divorce and alimony.

17. An Act providing for the Inspection of Cotton.

18. An Act for the settlement and Relief of the Poor.

19. An Act enabling Lewis Kerr to practise law in the several Courts of the Mississippi Territory.

20. An Act concerning certain records therein mentioned.

Nos. 13.14,15,16,17,18,19 and 20 originated in the House of Representatives and were approved March 10,1803.

21. An Act additional to an Act, and for amending and repealing part of an Act entitled "An Act to ascertain what property in this Territory shall be deemed taxable property and the mode of collecting, accounting for and paying public taxes" passed January 30,1802.

22. An Act additional to an Act entitled "An Act ascertaining the number of Attornies General to be appointed in the Mississippi Territory, for fixing their salaries and directing their duty in office", and for other purposes.

23. An Act to establish a permanent seat of Justice in Claiborne County and for other purposes.

24. An Act concerning Willa and Testaments the Settlement of Intestates Estates, and the duty of Executor, Administrators and Guardians.

25. An Act for the suppression of vice and immorality.

26. An Act to alter and appoint the time of the next meeting of the General Assembly of this Territory, and for other purposes therein mentioned.

27. An Act appointing and authorizing Commissioners to report to the General Assembly upon the most advantageous and convenient position for a permanent seat of Justice for the County of Adams.

Nos. 21,22,23,24,25,26 and 27 originated in the House of Representatives and were approved March 12,1803.

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These laws passed at the SECOND GENERAL ASSEMBLY (1st session) are signed by
William C.C.Claiborne, Governor of the Mississippi Territory;
William Gordon Forman, Speaker of the House of Representatives;
John Ellis, President of the Legislative Council.
Felix Hughes - Secretary to the Legislative Council,
Samuel Sidney Mahon - Clerk of the House of Representatives.

Act #1

An Act, to amend, an act entitled, "An act to empower the County Courts of the several Counties in this Territory to order the laying out public Roads, and establish and settle Ferries, and to appoint where Bridges shall be built."

§1. Be it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same. That all free male persons, [illegible] as slaves, between the ages of sixteen and fifty years, residing within this territory, except as excepted in the eighth section of the aforesaid act, shall be bound by themselves or substitutes to work on public roads agreeable to Law, and if any person liable to work on roads as-aforesaid shall refuse or neglect being duly warned, every such person shall forfeit and pay One dollar per day for each person so refusing or neglecting, to be recovered and applied as directed in the said eighth section of the act aforesaid.

§2. Whereas by the aforesaid act all persons heretofore liable to work on public roads, were required to work three

days

days in each year only, and whereas that number of days is found insufficient to compleat the roads in many p[illegible] of the Country. Be it therefore enact[illegible] that all persons who are or may be by Law required to work on the public roads, shall hereafter work six days in each and every year, if in the opinion of the overseer or overseers it shall be necessary.

Jos Gordon Jun[illegible] Speaker of the House of Representatives

John Ellis President of the Council

Approved January 27th 1809.

William C. C. Claiborne

Governor of the Mississippi Territory.

[illegible] 2

An act for the distribution of the Estates of Persons who die, not leaving property sufficient to pay all their just debts.

§1. Be it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the Authority of the same. That the rights credits, goods and chattels of a testator or intestate, who shall die after the passing of this Act, when insufficient to pay all his or her just debts shall be distributed among his or her creditors in proportion to the sums that shall be due to them respectively; but the Physicians bill, during the last sickness, and the funeral charges, and expences of such testator or intestate, and judgments that have been obtained and entered of Record, during the life of the said decedent, shall have a preference and be first paid.

§2. And be it further enacted; That in order to enable the Executor, or Executors, Administrator, or Administrators to examine into the condition of the Estate of the Testator or intestate, and ascertain the amount and value thereof, and the debts to be paid out of the same, no action either at Law or in equity shall be brought against such Executor or Executors, Administrator, or Administrators, within twelve months after the decease of such Testator, or Intestate, unless it be on a suggestion of Fraud in the said Executor, or Executors, Administrator or Administrators, or for the discovery of Assets, or for the Physician's bill, funeral charges and expences, and judgments of Record, whereof mention is above made.

§3. And be it further enacted, That any creditor whose debt is not due, may exhibit it to the Executor, or Executors, Administrator, or Administrators, as if it were due, and thereupon, shall be considered as a creditor under this act, and shall receive a dividend of the said Testator, or intestates estate, deducting, a rebate of legal

interest

interest, for what he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

§ 4. And be it further enacted, That this act shall commence and be in force from and after the passing thereof.

Thos Hoodhouman Speaker
of the House of Representatives
John Ellis President
of the Council

Approved January 27th 1809.

William C. C. Claiborne
Governor of the
Mississippi Territory.

Act # 3

An Act concerning Indians.

§1. Be it enacted by the legislative council and House of Representatives of the Mississ[illegible] assembled, and it is hereby e[illegible] same. That if any person or persons [illegible] this territory or any part thereof, shall presume to furnish or give, or shall direct or procure to be furnished or given, upon any account whatever to any Indian or Indians within this territory any rum, brandy, whiskey or other intoxicating liquors, he, she or they so offending, shall upon due conviction thereof before any justice of the peace of the county in which the offence may have been committed, forfeit and pay for each and every such offence the sum of ten dollars with costs to the use of the county; Provided, that prosecution for the same be commenced within three months from the time the offence may have been committed, [illegible] not afterwards.

§2. And be it further enacted, that if [illegible] or persons, shall deal, barter or traffic [illegible] ever whatever with any Indians or Indians within the limits of this territory, such person or persons shall, upon conviction thereof, before any court having cognizance

cognizance thereof, forfeit and pay for each offence the sum of two hundred dollars together with costs to the use of this Territory; — Provided, That prosecution for the same be commenced within [illegible] months [illegible] time of offence may have been [illegible]

[illegible] ds.

[illegible] enacted, That if any slave or [illegible] any Indian or Indians with any kind of Spirits or other intoxicating liquors, buying, bartering or in any manner trading with any Indian or Indians, he, she or they so offending, shall on conviction thereof, before any justice of the peace, receive on his or her bare back any number not exceeding twenty lashes, except in such case, where it shall appear that the said slave or Slaves were acting under the direction of his, her or their Master, Mistress or other person or persons having such slave or slaves under his, her or their care, then and in that case the said Master, Mistress or other person having charge of such slaves, shall be subject to and incur the specific penalties expressed in the preceding sections of this law, [illegible] offending shall be exonerated:

[illegible] acted, That the several fines im- [illegible] on due conviction of the person or persons committing the same, be levied on the offenders' goods and chattels; and for want of goods or chattels, on which to levy, he, she or they so offending, shall be committed to the jail of the county, there to remain until the same be paid

paid, not exceeding three months. —

§ 5. And be it further enacted, That the Sheriff or other officer, into whose hands any of the fines shall be paid, shall be bound to pay the respective treasuries, with [illegible] the same, except in cases in [illegible] where the fines are for the use [illegible] remitted by the sheriff with [illegible]

§ 6. And be it further enacted, That nothing in this law shall extend to the governor, as superintendant of Indian affairs, or to any person specially authorized, either by him or the President of the United States for trading with Indians. —

§ 7. And be it further enacted, That this [illegible] commence and be in force from and after the [illegible] of May next; and all acts and laws, or parts [illegible] coming within the purview and meaning of this act, are hereby repealed. —

Jno Gordon Forman
Speaker of the House of Representatives
John Ellis President
of the Council

Approved February 10th 1809.

William C. C. Claiborne
Governor of the
Mississippi Territory

Act # 4

p. 1 missing

forcibly or unlawfully detained, by whom and when done and the estate thereon, it shall be the duty of the said justice to issue a precept under his hand and seal, directed to the sheriff of the said county, commanding him to cause to come before the said justice twelve good and lawful men of the said county, qualified to serve as petit jurors, to inquire into and try such forcible entry and detainer, or forcible or unlawful detainer; which precept shall be in the form, or to the effect following, that is to say:—

County of } ss.

The Mississippi territory, to the sheriff of the said county, greeting:

Whereas, complaint is made to the undersigned justice of the peace for the said county, of a certain forcible entry or detainer, or of a certain unlawful detainer, (as the case may be) by C.D. into the messuage (or upon the lands) of (P.D.) in the county aforesaid; You are, therefore, hereby commanded to cause to come before the undersigned justice aforesaid, at the hour of in the noon of the day of twelve good and lawful men of your county, to inquire of and try the said forcible entry and detainer, or forcible or unlawful detainer. Given under the hand and seal of the said justice this day of in the year of our Lord one thousand &c.

A. B. (L.S.)

§8. And be it further enacted, That the said justice shall issue a summons to the party complained against, in the words, or to the effect following:—

County of } ss. Mississippi territory, to the sheriff of the said county, Greeting:

You are hereby commanded to summon C.F. of the said county, to appear before the undersigned justice of the peace,

in

in and for the county aforesaid, at the hour of in the noon of the day of to answer to and make defence against the complaint of C.D. of a forcible entry and detainer; or if detainer only, then say of a forcible detainer) made by the said E.F. into the messuage (or upon the lands) of the said C.D. in the county aforesaid; and have you then and there this precept, with a return of your proceedings therein. Given under the hand and seal of the said A.B. the day of in the year of our Lord one thousand &c.

A.B. (L.S.)

9. And be it further enacted, That the said summons shall be served upon the party against whom the said complaint is made, or a copy thereof left at his usual place of abode, six entire days before the day of appearance therein mentioned; and that such service of the said summons in any part of this territory, as well without the said county as within it, shall be good and effectual in law; and further, that no jury shall, by virtue of this act, be sworn to enquire of and try any forcible entry and detainer, or forcible or unlawful detainer, where such previous notice shall not have been given as aforesaid.

10. And be it further enacted, That the party against whom such complaint is made, may at the time of appearance mentioned in the said summons, and before the said jury is sworn, plead Not guilty to the charge or complaint, or that he hath been three years in quiet possession, and his estate therein not ended or determined, according to a subsequent clause in this act; and thereupon the said parties shall be at issue; and the said justice shall proceed to swear the jury, as aforesaid, to enquire of and try the same; and if the said party against whom the complaint is made, as aforesaid, does not appear at the time specified in the said summons,

or appearing, does not plead to the said complaint, then it shall be lawful for the said justice to proceed in the same manner, as if he had plead=ed not guilty.

§ 11. And be it further enacted, That the said jurors and each of them, who shall be returned to enquire of and try the said complaint, the said justice shall administer the following oath or affirmation: You do swear /or affirm/ that you will, well and truly, try this issue joined between C. D. and E. F. and a true verdict give according to the evidence.

§ 12. And be it further enacted, That when the jury shall be sworn, as aforesaid, the justice shall cause the said complaint to be read to them, and then call upon the complainant to support the same.

§ 13. And be it further enacted, That if the jury find the part=y, against whom such complaint is exhibited, guilty, or find a=gainst his plea of possession, it shall be the duty of the said justice to record the said verdict, and to give judgment thereon, with treble costs, and also to issue a writ of restitution, directed to the the sheriff, to cause the complainant to be reseized, or repos=sessed; to which shall be added, a clause, commanding the said Sheriff to levy the said costs, of the goods and chattels of the offender; and for want thereof, to take the body of such offender, and him safely keep in close custody in the common jail of the county, until he shall pay the same, or be thence delivered by due course of law.

§ 14. And be it further enacted, That if the jury find against the complainant, the said justice shall record the verdict, and give judgment accordingly, with costs; and shall issue execution, directed as aforesaid, for the said costs, against the com=

tels, and in want thereof against the body of the complainant.

§ 15. And be it further enacted, That the said justice may, at the request of either party, and on good reasons being assigned, postpone the said trial to anytime not exceeding fifteen days; but such postponement to be on the payment of costs.

§ 16. And be it further enacted, That it shall be the duty of the said justice to enter on his minutes or docket, true copies of the complaint exhibited under this act, of the summons and venire, and their respective returns and the names of the jurors, their verdict and his judgment thereon; and also the names of the witnesses, and the admission of evidence objected to, and the rejection of evidence offered, the reason of such admission or rejection, and all the proceedings before him had, touching said complaint.

§ 17. And be it further enacted, That if the sheriff of any county, shall neglect, or refuse to execute or return any precept, writ or other process to him directed and delivered, by virtue of this act, he shall for every such offence, forfeit and pay two hundred dollars to the party aggrieved, to be recovered with costs, by action of debt in any court of this Territory, having cognizance thereof.

§ 18. And be it further enacted, That the proceedings had by virtue of this act, on such forcible entry and detainer, or forcible or unlawful detainer, May be removed before the superior or supreme court, by writ of Certiorari, and in no other way, and then only after judgment.

§ 19. And be it further enacted, That neither the said judgment, or any thing in this act, shall bar or prevent the party injured, from bringing an action of trespass, or other actions, against the aggressor or party offending.

§ 20.

§ 20. And be it further enacted, That the estate or merits of the title, shall in no wise be enquired into, on any complaint which shall be exhibited, by virtue of this act. Provided always, That this act shall not extend to any person who have had the uninterrupted occupation, or been in quiet possession of any lands or tenements for the space of three whole years together, immediately preceding such complaint so exhibited to the said justice, and whose estate, therein is not ended, or determined; but every such person may plead the same to the said complaint, which shall be tried, in the manner hereon before prescribed.

§ 21. And be it further enacted, That every justice of the peace, before whom any prosecution shall be instituted by virtue of this act, shall be, and he is hereby authorised to issue writs of subpoena ad testificandum into any county in this Territory.

§ 22. And be it further enacted, That in prosecutions, under this act, the following fees shall be allowed.

To the Justice.

For every summons	Thirty Cents.
For every venire facias	Forty cents.
For entering copies of all proceedings thereon	Two Dollars.

For

For subpoena, for every Witness	Twelve Cents.
For swearing the jury	Twenty Cents.
For administering every oath or affirmation	Six Cents.
For entering every Verdict	Twelve cents.
For entering every judgment	Twelve cents.
For every bail	Two Dollars.
For return to every Certiorari	One Dollar

To the Sheriff.

For serving every summons and return	One Dollar.
For summoning every jury returning precepts and attending the trial.	Four Dollars.
For executing every writ of restitution	Two Dollars.

For serving every execution for costs, advertising property for sale & the same fees as are or shall be allowed for the like services in the County Courts.

To the Jurors and Witnesses

The same fees as are, or shall be allowed to their respectively in civil cases, in the County Courts.

To the Attorneys.

For the trial of every cause	Three Dollars.

§23. And be it further enacted, That every person summoned as a juror, or subpoenaed as a witness, who shall not

not appear, or appearing, shall refuse to serve or give evidence in any prosecution instituted by virtue of this act, shall forfeit and pay, for every such default or refusal, (unless some reasonable cause be assigned), such fine, not exceeding eight dollars, in the case of a juror, and not exceeding one hundred dollars in the case of a witness, as the said justice shall think proper to impose; and such justice is hereby authorized and required to issue an execution directed to any constable of the said county, to levy the same of the goods and chattels of the offender, which fine when recovered, shall be applied, by the said justice, to the use of the said county.

§ 24. And be it further enacted, That this act shall commence and be in force from and after the passing thereof.

William Gordon Foreman
Speaker of the House of Representatives

John Ellis President
of the Council

Approved February 10th 1809.

William C. C. Claiborne
Governor of the Mississippi
Territory.

[illegible]

An Act concerning Notaries Public,

Sect. 1st. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, That the Governor shall appoint and commission a competent number of persons of known good character, integrity and ability, as Notaries Public of this Territory, to reside at such place or places within the same, as the Governor shall in and by the respective commissions direct;

Provided, that there shall not be more than two Notaries appointed and commissioned to reside in any one County in this Territory.

Sect. 2nd. and be it further enacted, that the said Notaries so commissioned as aforesaid, and every of them, shall have the power of administering oaths and affirmations to Law, in all matters belonging or incident to their office; and all and every person and persons that shall be legally convicted of having wilfully and knowingly made or taken a false oath or affirmation before a Notary or Notaries in any matter or matters within their official duty, shall suffer the pains and penalties of wilful and corrupt perjury.

Sect. 3rd. And be it further enacted, that the said Notaries and of them shall have the power to receive the proof or acknowledgement of all instruments of writing relating to commerce or navigation, such as bills of sale, bo[illegible] of ships, vessels or boats, charter-parties or affreightment, [illegible] of Attorney and such other writings as are commonly proved or acknowledged before Notaries within the United States, and also to make declarations and testify the [illegible] thereof under their seal of Office, concerning all matters by them done in virtue of their respective Offices,

Sect. 4th. And be it further enacted, that every of them, the said Notaries shall keep fair Registers of all official acts by them done in virtue of their office, and shall co[illegible]

thereunto required, give a certified copy of any record in his office
to any person or persons applying for the same, such person
persons paying the legal fees therefor.

Section 5th. And be it further enacted that in case of death resig-
nation, disqualification or removal of any of the said Notaries,
or their Registers and other publick papers shall be lodged
within thirty days next after such death, resignation,
disqualification or removal, in the office of Recorder of deeds
of the particular County, where he or they resided, and the
recorder for said County may bring and maintain an action of
trover or detinue for the same, and such registers or publick
papers shall not in any case be liable to be seized, attached
or taken in execution for debt, or for any demand whatever,

Sec. 6th. And be it further enacted, that every Notary shall
provide a public notarial seal with which he shall authen-
ticate all his acts, instruments and attestations, on which
seal shall be engraved the arms of this Territory and shall
have for Legend, the name, surname and office of the Notary
bearing the same, and the place of his residence,

Sec. 7th. And be it further enacted, that every Notary on his
appointment, and before he enters on the duties of his office
shall take and subscribe an oath or affirmation, that he
shall and will well and truly perform the duties of his
office, and also that he shall and will support the Constitu-
tion of the United States and the ordinance for this Territory,
and [illegible] Bond, himself in a sum not exceeding
two Thousand dollars, and two sureties in a sum not exceeding
one thousand dollars each, conditioned for the faithful perform-
ance of the duties of his office, the amount of said
Bond to be determined by the Governor, which obligation
shall be recorded in the office for recording of deeds, within
the respective County where he the said Notary may
reside, and may be sued by any party or parties injured
in like manner, and with like effect as bonds given by

Sheriffs and Coroners, for the faithful execution of their respective Offices.

Section 8th. And be it further enacted, that it shall be lawful for each and every of the Notaries Public, commissioned as aforesaid to take as a compensation, for his or their several services, the following sums viz.

No. 1.	For protest of Bill registering and seal &c.	£ 1 " 50
2.	Attesting letters of Attorney and seal	" 50
3.	Notarial affidavit to an account under seal	" 37½
4.	drawing and attesting apprentices Indentures	1 " 00
5.	Registering foreign sea protest	1 " 50
6.	Registering Copy of each protest	" 33
7.	Registering foreign Bill protested with Certificate	" 75
8.	Registering protest of Bill of Exchange or Promissory note for Non-acceptance or Non-payment	" 50
9.	entering or noting sea protest to be deducted from the legal charge for the protest, if extended	1 " 50
10.	noting a Bill of exchange note or thing properly protestable either for non-acceptance or non-payment	" 50
11.	drawing or taking the proof or acknowledgement of a Bill of Sale, bottomry, mortgage or hypothecation of Vessel, or charter-party	1 " 25
12.	certifying power of Attorney for transfering or selling stock or other securities	" 37½
13.	drawing and certifying affidavit before a Justice	1 " 50
14.	each oath or affirmation	" 25
15.	Notarial procuration and seal	1 "
16.	letters of Attorney for transfering stock or other securities and certifying the same	" 75
17.	For drawing or taking acknowledgement or proof of substitution to a letter of Attorney	1 " 50
18.	being present at a demand, tender, or deposit and noting the same	1 " 50

19. Certificate of Copies or papers ready made ..... $ 1 " "

20. Comparing the same for every 100 words ..... " 12½

21. Certificates of sales at auction ..... " 75

22. Taking proof of debts to be sent abroad proof and acknowledgment of letters of Attorney for receiving and transferring public securities each ..... " 75

Section 9th And be it further enacted that this act shall commence and be in force from and after the passing thereof –

William Gordon Forman
Speaker of the House of Representatives
John Ellis President
of the Council

Approved February 10th 1803.

William C. C. Claiborne
Governor of the Mississippi Territory.

An act concerning Notaries Public

Original in the Archives of the Mississippi Territory

Act # 6

An Act to amend the Act entitled "An Act to establish a College in the Mississippi Territory"

Whereas it is necessary that on extraordinary Occasions the Board of Trustees of Jefferson College should be called together at a short notice; and where as the Mode provided for that purpose would often be attended with great delay

Therefore

Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in general Assembly convened, and it is hereby enacted by the Authority of the same, That the President of the Board of Trustees of Jefferson College, or in his absence from the Territory, the Vice-President shall have authority to call a Meeting of said Trustees at any time, provided Notice be given of such intended Meeting by advertising the same

in one of the News=papers of this Ter=
=ritory, twelve Days before said Meeting
shall be held, any thing to the contrary
notwithstanding

William Gordon Lowman
Speaker of the House of Representatives

John Ellis President
of the Council

Approved March 4th 1803.

William C. C. Claiborne
Governor of the
Mississippi Territory.

Cert # 71

An act supplemental to an act entitled "A Law to render promissory notes and Cotton receipts negotiable and for other purposes" passed by the Governor and Judges the 30th. day of October A.D. 1800

S. 1. Be it enacted by the Legislative Council and house of Representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the authority of the same, That from and after the passing of this act, all cotton receipts given by Gin holders, in which no time of payment or delivery of the cotton therein mentioned, is expressed or limited, shall be taken and construed to be payable or deliverable within four months, from the date or delivery of such receipts; and on the non-payment or non-delivery of any Cotton specified in any receipt expressing the time of payment or delivery thereof, at the time so expressed; or on the non-payment, or non-delivery of any Cotton specified in any receipt not expressing the time of payment or delivery thereof, at the expiration of said four months, the legal holder or holders of such Cotton receipts shall in either case after lawful demand made, be entitled to recover twenty per Centum, damages, on the value of the Cotton specified in such receipt to be recovered with costs of suit; Provided, that if any Owner of a Gin shall deliver the full amount of any Cotton due on any such receipts within fifteen days after lawful demand shall have been made, by the legal holder of such cotton receipt or by his agent, and provided also that when from default of the Owner or holder of said receipts the necessary bagging and Cordage have not been duly supplied, then in either case, such owner of a Gin shall not be liable to pay any damages whatsoever, any thing to the contrary contained in this act notwithstanding.

S. 2. And be it further enacted, That all bills of Exchange hereafter drawn upon any persons resident within the United States, and out of this Territory, which shall be returned protested,

the damages of such protested bills shall be fifteen per cent on the sum drawn for, and all bills in like manner drawn upon persons resident without the Jurisdiction of the United States being protested the damages shall be twenty per cent, on the sum mentioned in the said bills respectively, and all charges incidental thereto, with lawful Interest as aforesaid until the same be paid.

S. 3. And be it further enacted. That every bill of Exchange of the sum of twenty dollars or upwards hereafter drawn in or dated at and from any place in this Territory, upon any person or persons, within the said Territory and payable at a certain number of days, weeks or months after date or sight thereof shall in case of non-acceptance by the drawee, when presented for acceptance or if accepted in case of non-payment by the drawee, when due and presented for payment, be protested by a Notary Public, in like manner as foreign bills of Exchange, and the damages on such bills shall be ten per cent on the sum drawn for, and shall in every other respect be regulated and governed by the same laws, customs and usages, which regulate and govern foreign bills of Exchange, Provided, That such protest shall for want or in default of a Notary Public, be made by any justice of the peace, whose act in such case shall have the same effect as if done by a Notary Public.

William Gordon Foreman
Speaker of the House of Representatives
John Ellis President
of the Council

Approved March the 4th 1809.

William C. C. Claiborne
Governor of the Mississippi
Territory.

Act # 8

An Act creating the Offices and defining the duties of Territorial and County Treasurers—

§.....1. Be it enacted by the Legislative Council, and House of Representatives of the Mississippi Territory, in General Assembly Convened, and it is hereby enacted by the authority of the same, That there shall be appointed, and commissioned by the Governor immediately after the passing of this act, one Treasurer for the Territory, under the title of Territorial Treasurer, and one treasurer in each and every county, under the title of County Treasurer, who shall, each severally, prior to the entering upon the duties of his Office, take and subscribe an oath of Office, and give bond with sufficient sureties; the Territorial Treasurer, in the penal sum of twenty thousand dollars; and the county Treasurers, in the penal sum of five thousand dollars, each, payable to the Governor of the Mississippi Territory and his successors in Office.—

§.....2 And be it further enacted, That the condition of the Territorial Treasurer's bond shall be in the words or to the effect following, to wit; "The condition of this obligation is such, that if the above bounden shall, from time to time, and at all times, render a just and true account to the Legislature of the Mississippi Territory, when by them thereunto required, of all the monies, securities, stock and other property, of the said Territory, which shall come to his hands or be committed to his charge, and deliver the monies, securities, stock, and other property, of the said Territory in his hands, together with all documents instruments of writing, papers and books belonging to or for the use of the said Territory, to his successor in office, and shall well, honestly and faithfully perform

all the duties of his office and shall answer for all improper appropriations, waste, embezzlement or destruction of the said monies, securities, stock, property, documents instruments of writing, papers or books which shall be done or committed by any person or persons, to be by him employed in the said office; then this obligation to be void, otherwise to be and remain in full force and virtue, which bond shall be executed before the governor, and with the oath thereon endorsed filed in the office of the Territorial secretary,

S. 3. And be it further enacted. That the condition of the bond of the County Treasurer, shall be the same, as that of the Territorial Treasurer changing therein the words "Legislature of the Mississippi Territory," into "County Court" and the words "Territory" into, "County", which bond shall be executed before two justices of the peace and with the oath thereon endorsed, filed in the office of the clerk of the court of the county wherein he is appointed.

S. 4. And be it further enacted. That if any Treasurer die, resign, be discharged, or cease to hold his office, then such Treasurer, or if he be dead, his heirs, executors, or administrators shall fairly and regularly state the account, and deliver the monies, securities, stock, property, instruments of writing and books of the Territory, or County in his possession, to the succeeding Treasurer, who (if a Territorial Treasurer) shall make report thereon to the Legislature, or (if a County Treasurer), to the County Court; and the said report, if confirmed by the Legislature or County Court, shall be a discharge of the late Treasurer's bond, which in such case shall be delivered to the said Treasurer, or his heirs, executors or administrators.

S..... 5. And be it further enacted, That it shall be the duty of the said Treasurer, to receive and keep the monies of the Territory or County for which they are appointed, to disburse the same, agreeably to law, and take receipts for all monies which they shall pay, to keep accounts of the receipts and expenditures of the public money, and all debts due to or from the Territory, or to or from the County, for which he is Treasurer, to superintend the collection of the revenue; to direct prosecutions for delinquencies of officers of the revenue; and for debts that are, or shall be due to the Territory, or County, for which they are appointed.

S..... 6. And be it further enacted, That it shall be the duty of the Territorial Treasurer, to make reports and give information to the Legislature of this Territory, or in their recess to the Governor, in person or on writing, when may be required, respecting all matters referred to him, or which shall in anywise appertain to his office, and generally to perform all such services relative to the finances, as he shall be directed to perform.

S..... 7. And be it further enacted, That it shall be the duty of the County Treasurers, respectively, to make reports and give information to the County Courts of the Counties wherein they are appointed, in person, when thereunto required, respecting all matters in any wise belonging to their offices, and generally to perform all such services relative to the finances of the Counties, as they shall be directed to perform.

S..... 8. And be it further enacted, That it shall be the duty of the said Treasurers, and every of them, to state in fair books, the amount of monies, which they shall receive for taxes, impositions, debts, fines, penalties, forfeitures

or any other account whatsoever for or in behalf of the Territory or of the County in which they are respectively appointed, and which they shall pay in pursuance of Act of the Legislature, in such manner as that the neat produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in payment of the several demands, may distinctly appear, and the Territorial Treasurer, shall from time to time, lay the same and all other his proceedings, relative to his office, before the legislature; and each of the County Treasurers, shall in like manner, lay the same, from time to time, and all other their proceedings relative to their office, before the County Court, of the County, wherein they are appointed. —

9. And be it further enacted. That the Treasurers to be appointed by virtue of this act, shall and may retain, for their own use out of all public moneys, which shall come to their hands, as full compensation for all services, and expences, incidental to their offices, a sum after the rate of five per centum, and no more; —

S. 10. And be it further enacted. That all and every act and acts, part and parts of acts, within the purview and meaning of this act, be and the same are hereby repealed. —

William Gordon Forman
Speaker of the House of Representatives
John Ellis President
of the Council
William C. C. Claiborne
Governor of the Mississippi
Territory.

Approved March the 4th 1809 —

An act respecting Conveyances.

§ 1. Be it enacted by the Legislative Council, and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same; That if any deed, or conveyance of lands, tenements, or hereditaments, lying and being in this Territory, heretofore made and executed, and not already acknowledged or proved, according to law, or hereafter to be made and executed, shall be acknowledged, by the party or parties, who shall have executed it, or be proved by one or more of the subscribing witnesses to it, that such party or parties, signed, sealed and delivered the same, as his, her or their, voluntary act and deed, before one of the Judges of the superior court of this Territory, or one of the Justices of any County court of that County, in which the lands, tenements or hereditaments, are situated, and if a certificate of such acknowledgment or proof, shall be written upon, or under the said deed, or conveyance, and be signed by the person, before whom it was made, then every such deed or conveyance, so acknowledged or proved, and certified, shall be received in evidence in any court of this Territory, as if the same were then and there produced and proved.

§ 2. And be it further enacted; That no conveyance of lands, tenements, or hereditaments, lying and being in this Territory, which has been made and executed, and not already acknowledged or proved according to law, or which shall be made and executed, shall be recorded in any recorder's office in this Territory, unless the execution of the same shall have first been acknowledged or proved and certified in a manner herein directed.

S. 3. And be it further enacted; That no estate of a feme covert in any lands, tenements or hereditaments, lying and being in this Territory, shall hereafter, pass, by her deed or conveyance, without a previous acknowledgment made by her, on a private examination, a part from her husband, before one of the Territorial Judges, or two of the Justices of the County Court, that she signed, sealed, and delivered, the same as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband, and a certificate thereof written on or under the said deed, or conveyance, and signed by the officer, before whom it was made; and further, that every deed or conveyance, so executed and acknowledged, by a feme covert, and certified as aforesaid, shall release and bar her right of Dower, and be good and effectual, to convey the lands, tenements and hereditaments, thereby intended to be conveyed: Provided that this clause shall not be construed to enable any feme covert, under the age of twenty one years to convey lands, tenements, or hereditaments or any right of Dower interest or estate therein.

S. 4. And be it further enacted, That if the party who shall execute any deed or conveyance of lands, tenements or hereditaments lying and being in this Territory, or the witnesses thereto, reside not in this Territory; but in some other Territory or state in the Union, then the said acknowledgment or proof, made before, and certified by, the Chief Justice of the united states, or any associate Justice of the supreme Court of the united states, or a district Judge of the same, or any Judge or Justice of the supreme or superior court of any Territory or state in the union, shall be as good and effectual, as if

it had been made before, and certified by, one of the Judges of the supreme court of this Territory. — —

S. 5. And be it further enacted, That if the party, who shall execute any deed or conveyance of lands, tenements or hereditaments lying and being in this Territory, or the witnesses thereto, reside in a foreign Kingdom, state, Nation, or Colony, then the said acknowledgment, or proof, made before any court of law, or Mayor or other chief Magistrate of any city, borough or corporation of the said foreign Kingdom, state, Nation or Colony, in which the said party or witnesses reside, certified by the said Court, Mayor, or Chief Magistrate, in the manner such acts, are usually authenticated by them, or him, shall be as good and effectual, as if it had been made before, and certified by, one of the Judges of the supreme court of this Territory. — —

S. 6. And be it further enacted, That the two preceding sections of this act, shall be construed to extend to, and comprehend, acknowledgments of deeds or conveyances, which shall be made by femes Covert, who reside out of this Territory, and in any other Territory, or state, in the Union, or in any foreign Kingdom, state, nation, or Colony.

S. 7. And be it further enacted. That every deed or conveyance of lands tenements, or hereditaments, lying and being in this Territory, which shall be made and executed, from and after the passing of this act, shall be void, and of no effect, against a subsequent bona-fide purchaser or mortgagee, for a valuable consideration, not having notice thereof, unless such deed or conveyance, shall be acknowledged, or proved, and certified, as by this act is directed, and be lodged (within twelve callender months, after the time of signing, sealing, and delivering the same) with the clerk of the County Court of the County, in which the said lands, tenements, or hereditaments are situated, to be

recorded by the said Clerk: Provided, nevertheless, that such deed or conveyance, shall as between the parties and their heirs be valid and operative.

§ 8. And Whereas, it is necessary, that provision should be made for proving deeds or conveyances of lands, tenements, or hereditaments where the grantors and Witnesses are dead, Therefore be it enacted; That if the grantor or Witnesses of any such deed, or conveyance, be dead, or cannot be obtained, it shall be lawful for any of the officers herein before mentioned, as the case may require, to take under oath or affirmation, the examination of any person or persons, to prove the hand writing of such deceased witness or witnesses, or when such proof cannot be had, then to prove the hand writing, of such grantor or grantors, which shall be certified on, or under, such deed or conveyance, and signed by the officer, before whom such proof shall have been made, and such deed or conveyance, so proved and certified, shall be received in evidence and be recorded by the Clerk of the County Court of the County, in which, said lands, tenements, or hereditaments are situated, in the same manner as other deeds or conveyances are directed by this act.

§ 9. And be it further enacted That the Clerk of the County Court shall record, in large well bound books of good paper, to be provided for that purpose, and carefully preserve, all deeds and conveyances of lands, tenements and hereditaments lying and being in the said County, acknowledged or proved and certified to have been acknowledged or proved in manner aforesaid, which shall be delivered to him to be recorded, to which books, every person shall have

access at proper seasons, and be intitled to transcripts from the same, on paying the fees allowed by law.

§ 10. And be it further enacted, That it shall be the duty of the Clerk to record in the said book without delay, every such deed or conveyance, with the acknowledgments, proofs and certificates, written on or under the same, and the plats; of surveys, schedules, and other papers therein refered to, and annexed, by entering them, word for word, in a fair hand, and mentioning in the margin, or at the foot of such record, the day of the month, and the year, when the said deed, or conveyance, was delivered to him, or brought to his office, to be recorded.

§ 11. And be it further enacted; That the said Clerk shall give a receipt to the person, who shall bring any, such deed or conveyance, mentioning therein, the time when it was delivered to him, or brought to his office, to be recorded, the date, the names of the parties to it, and the place where, the lands, tenements, and hereditaments, therein specified, are situated, That the said Clerk shall certify on, or under, such deed, or conveyance, the day of the month and year when he received it, and the name or number of the book, and page, or pages, in which it is recorded; and shall when recorded, deliver it to the party entitled to it or his order.

§ 12. And be it further enacted, That if any Clerk, shall neglect or refuse to perform, any service or duty, required of him, by this act, he shall for every neglect or refusal, forfeit and pay, two hundred dollars, to be recovered, with costs, by action of debt, to be brought in the name

of the County Treasurer, to and for the use of the County, and shall also be liable for all damages, which the party aggrieved, may have sustained by reason of the non-performance of such service or duty.

S. 13. And be it further enacted, That if the original deed or conveyance be lost, or mislaid, distroyed by time or accident and not in the parties power to produce, the record of such deed or conveyance and the transcript of such record, certified to be a true transcript by the said Clerk in whose office the record is kept, shall be received in evidence in any Court in this Territory, and be as good, and effectual, and available in law, as if the original deed or conveyance were then and there produced and proved.

S. 14. And be it further enacted, That every person who has received the appointment of Clerk of any County of this Territory, and now acts as such, shall on or before the first day of June next, and every person who shall hereafter be appointed Clerk, of any County Court, of this Territory, shall before he enters upon the duties of his Office, give bond to the Governor of this Territory and to his successors in office, with two sufficient Freeholders in the County, to be approved of by the said Court or any three Justices thereof, in the sum of three thousand dollars, with condition for the delivery of the said record, books, and other writings, entire and undefaced to his successor in office, and for the faithful performance of the duties required by this act, which bond the said Court or Justices shall deliver to the secretary of this Territory, to be by him filed in his office,

and if such clerk shall refuse or neglect to give bond as aforesaid, on or before the first day of June next, or he who may hereafter be appointed, for the space of thirty days after having received notice of his appointment, he shall be removed from Office: ——

§ 15. And be it further enacted. That every person, who shall be appointed to the Clerkship of any County Court, shall on receiving the book or books, in which such deeds and conveyances are recorded, sign, and acknowledge, a receipt for the same, before one of the Justices of the said Court, whose duty it shall be to deliver the said receipt, to the Secretary of this Territory, to be by him filed in his office. ——

§ 16. And be it further enacted. That upon the death, removal or resignation, of any Clerk of any County Court, the seals, minutes, papers, deeds, writings, documents, records and books of or belonging to such office, shall be delivered to his successor in office, on the oath or affirmation of the preceeding clerk, or in case of his death, on the oath or affirmation of his Executors, or administrators and if such clerk, his Executors, or administrators, shall refuse or neglect to deliver the same, on oath or affirmation, as aforesaid, being demanded by his successor in office, then every such person shall forfeit and pay five hundred dollars, to be recovered, with costs, by action of debt, in the name of the County Treasurer, for the use of the County. ——

§ 17. And be it further enacted. That no record shall be removed by writ of subpoena, or otherwise, before any court out of the County in which such record is kept, when a transcript thereof

A

may be given in evidence.

§ 18. And be it further enacted. That every grant or conveyance of messuages, lands, tenements, and hereditaments, or of rent or of the reversion or remainder, of messuages, lands, tenements, and hereditaments, shall be good and effectual without attornment of the tenant, to the tenant who before notice of such grant or conveyance shall have paid the rent to the grantor, shall be prejudiced or suffer any damage by such payment.

§ 19. And be it further enacted. That all warranties by any tenant for life shall be void against those in remainder or reversion.

William Gordon Forman
Speaker of the House of Representatives

John Ellis President
of the Council

Approved March the 4th 1808.

William C. C. Claiborne
Governor of the
Mississippi Territory

Lt #10

p2 missing

An Act for the more easy partition of lands held by Coparceners, joint tenants, and tenants in Common.

S. 1. Be it enacted by the Legislative Council, and House of Representatives, of the Mississippi Territory, in General Assembly Convened, and it is hereby enacted by the authority of the same, That any person being a coparcener, joint tenant, or tenant in common, in any tract, or tracts of land, within this Territory, may, at any time, apply to any one or more of the judges of the superior Courts of this Territory, or to any three or more of the justices of the County Court, wherein such lands may lie, for a partition of such tract or tracts of land; whereupon the said judge, judges, or justices, shall ascertain the number of equal shares or parts, in which such tract or tracts were, or (at the time of such application) are held by the Original coparceners, joint tenants, or tenants in common, and shall nominate three persons, not interested in the said land, as commissioners, to make partition of such tract or tracts, into as many parts or shares, as the same was originally held; and the said judge, or judges, or justices, shall thereupon order an advertisement, to be inserted in one of the public News papers of this Territory, and in any such other public News papers or places as the said judge, judges or justices shall direct for six weeks successively, to the following or like effect; he or they making such alterations or additions as the nature of the case may require.

By Esquire Chief judge (or judges) of the Superior Courts of the Mississippi Territory, (or justices of the County Court of the County of)

Notice is hereby given, that on application to me (or us) by of who claims an undivided part of all that tract of land, (giving a description of the tract or tracts intended to be divided) I (or we) have nominated A B C D and E F commissioners to divide the said tract or tracts of land into equal shares or parts, and unless proper objections are stated to me (or us) at on the day of

(which is to be at least two months from the date of the notice) the said A B C D and E F will then be appointed commissioners to make partition of the said lands pursuant to an act, entitled an "act for the more easy partition of lands held by coparceners, joint tenants and tenants in common" passed the day of given under our hands this day of

S. 2. And be it further enacted, That if no objections are made before the said judge, or judges, or justices, on the day appointed by him or them for that purpose, to the persons nominated as commissioners, then the said judge, or judges, or justices, shall in writing, under his, or their hands, and seals, appoint the persons so nominated, to be commissioners, to devide the said land, pursuant to the directions prescribed in this act, and the judge, or judges or justices, shall in the said writing, discribe the tract or tracts to be divided, and direct the number of parts or shares, into which the same is to be allotted; but if objections are made to the persons nominated as commissioners or to any of them, the said judge, or judges, or justices shall then proceed to hear and determine such objections; and in case he or they find them well founded, then to appoint under his or their hands and seales, other fit and disinterested persons, in the room of those, he or they may think proper to remove.

S. 3. And be it further enacted, That the commissioners so appointed, before they proceed to the execution of the powers and authority vested in them by this act, shall be severally sworn or affirmed, before one of the judges of the Superior court or any justice of the County Court, that they will honestly, faithfully and impartially, make the partition intended, and perform the trust, duties and services

required of them by this act, to the best of their skill, knowledge and judgment.

S. 4. And be it further enacted, That the commissioners shall cause a survey to be made in their presence, of the tract or tracts to be divided, and shall then proceed to divide the same, into the number of parts or shares, directed by the said judge, or judges, or justices, in the writing containing their appointment, each part or share to contain one or more lots as the commissioners may think proper; they having due regard, in the partition, to the situation, quantity, quality and advantages, of each part or share, so that they may be equal in value, as nearly as may be; and if the bounds of any tract or tracts, so to be divided, shall be controverted, the commissioners are hereby directed, if such controverted part is valuable, to separate the same, from the uncontroverted part, and to make partition of the tract, or tracts, in such manner, that a proportion of the controverted part, may be allotted to each share, as well as a proportion of the uncontroverted part; and the said commissioners, previous to the said survey, shall administer an oath or affirmation to the surveyor and chainbearers, that they will well and truly perform their respective duties, honestly and impartially; which oath or affirmation, any one of the said commissioners, is hereby empowered to administer.

S. 5. And be it further enacted, That the said commissioners shall number the several parts, or shares, by them laid off, from number one, progressively, and shall in the same manner, number each lot, in the several shares, if the same contain more than one lot, and shall make a true field book, specifying the bounds and numbers of each lot, and also a map or maps of the tract or tracts on which the several shares or lots shall be laid down and numbered, and shall keep an exact and particular account of their time expended, in the execution of the duties of this act, and of the money due for the same, and also of all expences accrued for

surveying or otherwise, agreeably to the directions of this act; and the said commissioners shall thereupon give notice by advertisement in manner aforesaid, for three weeks successively, that on a certain day, by them named, not less than one month from the date of such notification, attendance will be given, at a place therein named, and an allotment, by ballot, take place, of the several parts or shares of the tract or tracts, therein described, to the original coparceners, joint tenants and tenants in common, their heirs or assigns

§ 6. And be it further enacted. That, on application made, to the said judge or judges, or justices, by any one of the parties to the partition intended to be made, the said judge, or judges, or justices, shall attend at the time and place specified, in the advertisement of the commissioners, and shall with the assistance of the said commissioners, proceed to allot the several parts or shares of the tract or tracts intended to be divided in the manner hereinafter described; but if no application shall be made to the said judge or judges or justices for his or their attendance, then the said commissioners shall on the day appointed for the purpose, proceed, in a public manner, to number as many tickets, as there are shares of land, marked on the map, which shall be put in a box, and the names of the original coparceners, joint tenants or tenants in common, shall be put, in seperate tickets, into another box; when a person appointed by the said judge or judges, or justices, or commissioners, shall proceed to draw a ticket of the names, and then, a ticket of the numbers, and so proceed until all the tickets are drawn, and the share on the map, bearing the number of the ticket drawn, next after drawing the ticket with the name, shall be the separate and divided share of

that original Coparcener, joint tenant, or tenant in common, his or her heirs, or assigns, in the land so divided; of which balloting, the said judge or judges or justices or Commissioners shall make a full and ample certificate, under his or their hands and seals, specifying particularly, the time, place and manner of balloting, and the said allotment of the shares

S. 7. And be it further enacted, That the said judge or judges or Justices or the said commissioners are hereby authorised, as the case may require, to issue his or their precept or precepts under his or their hands and seals, commanding such person or persons, who are able to give any necessary information, to come before him or them, when and where he or they may direct, to testify, by an oath or affirmation concerning such acts, matters, or things, as it may be necessary for the said judge or judges or justices or Commissioners, to investigate in execution of the trust, duties and services required of them by this Act, and to bring with him or them all such patents, surveys, maps, records, deeds or other writings, as may be necessary to be examined by the said judge or judges, or justices or commissioners.

S. 8. And be it further enacted, That the Commissioners shall transmit the writing, containing their appointment, and their oath or affirmation of office, properly certified by the person administering the same, and the map and field book, and also their accounts, to the judge or judges or justices, from whom they received their appointment, or in case of their death, resignation or removal, then to any other judge, or judges or justices of the same court, who after inspecting the same, shall order the said instruments, excepting the account of

expences, to be recorded in the clerk's office of the superior court, or in the clerk's office of the county court, in which the land lie, which shall be good evidence of such partition; and which partition shall be as valid, and effectual in law, to divide and separate the said lands, as if the same had been made on writs of partition, according to the course of the common Law.

§ 9. And be it further enacted, That the said judge or judges shall be allowed for the services required by this act, at the rate of two dollars and fifty cents and the said justices, at the rate of two dollars a day each, while imployed in the said business, and the said commissioners at the rate of two dollars a day each, and the said surveyor at the rate of four dollars a day, and the chain bearers and witnesses at the rate of one dollar a day each.

§ 10. And be it further enacted. That in case of the death, resignation, neglect or refusal of any of the commissioners, to be appointed, by virtue of this act, before the trust, duties and services hereby required of them shall be completed, that then the said judge or judges or justices, or in case of his or their death, resignation or removal, any other of the judges or justices shall by writing, under his or their hands and seals, appoint another commissioner or commissioners, who shall be vested with the like powers and authority, as if he or they had been originally appointed.

§ 11. And be it further enacted, That after the said judge or judges or Justices, shall have ascertained the whole expence of such partition, he or they shall divide the same among the several parts or shares, which shall be paid by the persons to whom such shares were allotted, their heirs or assigns within four weeks after the same shall be ascertained, or in default of payment of such expence, the said judge or judges

or justices are hereby authorised, where no other property is to be found, to direct a sale to be made by the commissioners, of so much of those parts or shares, deficient in paying the expences, as will be sufficient to pay their respective proportions thereof, together with the expense accruing on such sale; and the said judge or judges or justices, shall direct the same to be sold by the said commissioners at public auction, to the highest bidder, whereof four weeks notice shall be previously given, in one of the said newspapers, and at three of the most public places in the county, in which the land lies; and the said Commissioners deed to the purchaser shall pass as good a title for the separate enjoyment of the same, as if all the owners and claimants shares of the entire tract divided had joined therein —

§ 12 And be it further enacted. That nothing in this act contained shall be so construed, as to tend to injure, prejudice, defeat or destroy, the estate, right or title of any person or persons claiming such tract or tracts of land or any part thereof or any thing therein, by title under any other person or persons, or by title paramount or superior to the title of such coparceners, joint tenants or tenants in common among whom partition is to be made. ——

William Gordon Foreman
Speaker of the House of Representatives
John Ellis President
of the Council

Approved March the 4th 1809.

William C. C. Claiborne
Governor of the Mississippi
Territory.

Act # 11

An act concerning strays, for improving the breed of horses, to prevent the stealing of Cattle, and directing the brands and marks thereof to be recorded.

S. 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same; That every person who shall take up any stray, which shall be found upon his plantation or land, shall forthwith give information thereof, to some justice of the peace, for the County where such stray shall have been taken up, and make oath before such justice, that the same was taken up at his or her plantation, or place of residence, and that the marks or brands have not been defaced or altered since the taking up, and thereupon the said justice shall issue his warrant to two disinterested freeholders of the neighbourhood, commanding them to view and appraise the same, without partiality, favor or affection, and certify the valuation under their hands, together with a particular description of the kind, marks, brands, stature, colour and age, which certificate shall by the justice, be transmitted to the clerk of the County court within ten days, to be by such clerk entered in a book to be kept for that purpose, for which the justice and clerk shall each receive fifty cents, to be paid by the taker up, and it shall be the duty of such clerk to cause a true copy of every such certificate and description to be publicly affixed at the door of his court house, during the entire continuance of two terms next after the same shall have been transmitted to him; for which he shall receive from the taker up fifty cents; Provided, That if two or more strays of the same species are taken up by the same person, at the same time, they shall be included in one entry and one advertisement; and the justice and clerk shall receive no more fees than for one of such strays.

S... 2. And be it further enacted, That when the valuation shall be under twenty dollars, and no owner shall appear before the last day of the second term of the Court whereat the publication of the certificate and description aforesaid was made, then the court by their order, shall cause the said stray to be publicly sold at auction, and the monies arising therefrom (after deducting the reward of the taker up, and all other reasonable charges to be valued by the court) shall be applied towards lessening the County taxes, and where the valuation shall exceed twenty dollars, the taker up, shall within one month from the time of appraisement, cause a true copy of the certificate, description and appraisement, together with notice where the stray is to be found, to be published three times in one of the public Gazettes of this Territory, and if no owner shall appear and prove his title thereto within one year from the date of the first publication, then such stray shall be sold, and the monies arising from the sale, after deducting the reward for the taker up valued by the court, and all other reasonable charges, shall be applied as above directed. ——————

S... 3 And be it further enacted That if the owner of any such stray shall appear and prove his or her property thereto, after the sale thereof, he or she shall be entitled to receive by order of the court, the amount of the neat proceeds of such sale. ——

S... 4. And be it further enacted, That if any person shall trade, sell, barter, take or send away any stray out of this territory, on any pretence whatsoever, he or she so offending shall forfeit and pay one hundred dollars, to be recovered in any court of this Territory, having competent jurisdiction, one half to the informer and the other half to the use of the County wherein the offence shall have been committed, And moreover

shall pay to the owner the amount of the appraisement; or if no owner appears, then to the county, for the use of the owner, subject to the regulations of the second section.

S. 5. And be it further enacted, That if any stray so taken up, shall die, or accidentally get away before the owner shall claim his or her right, the taker-up shall not be answerable for the same, but if any person shall immoderately use or in any wise abuse, any stray he shall be liable to the owner, or if the owner does not appear, to the County for double damages, and shall moreover forfeit his claim to all compensation for taking up, advertising and keeping such stray.

S. 6 And be it further enacted, That if any person shall wilfully or by neglect suffer any stallion above the age of two years (except such as are usually kept up and happen to get out by accident) to run at large in the woods or in any unenclosed range; it shall be lawful for any person to catch and geld such stallion, at the risk of the owner,—

S. 7. And be it further enacted. That any person who shall presume to take up a stray of whatsoever description, contrary to the meaning of this act, shall for every such offence forfeit and pay one hundred dollars recoverable with costs in any court of this Territory having competent Jurisdiction, one half to the county, and the other half to the person suing for the same.

S. 8. And be it further enacted, That every person who shall be convicted, of stealing any neat cattle, hog, sheep, or goat, shall for every such animal so stolen forfeit and pay to the owner, the value thereof, and also a fine of twenty dollars to any person suing for the same, to be recovered in any Court in this Territory having cognizance thereof, and moreover the offender shall receive on his bare back twenty five lashes well laid on, for the first offence, and

for every succeeding offence, he shall receive on his bare back thirty nine lashes well laid on, and stand in the pillory two hours.

S. 9. And be it further enacted. That every person who shall be convicted of altering or defacing the mark or brand, of any horse, mare, colt, mule, ass, neat cattle, hog, sheep, or goat not being his own property, and without consent of the owner shall for every such animal whose brand or mark he shall have so altered or defaced, forfeit and pay the same fines, to be recovered and appropriated in the same manner, and suffer the same penalties, as are prescribed in the preceeding section.

S. 10. And be it further enacted, That if any person shall be convicted of having marked or branded, with his mark or brand, any unbranded or unmarked horse, mare, colt, mule, ass, cattle, hog, sheep, or goat, not being his own property and without consent of the owner the person so offending shall forfeit and pay the sum of twenty dollars, for every animal so branded or marked, to be recovered and applied as aforesaid. Provided nevertheless that any person being in doubt as to the right of property shall call in two of the neighbours next adjoining the range wherein such stock shall run, and in their presence and with their approbation mark and brand or mark or brand any such stock as aforesaid, he shall not be liable to any of the penalties contained in this section.

S. 11 And be it further enacted, That any person in this Territory who hath any horses, cattle, or other stock, shall have a brand and ear mark, different from the ear mark and brand of every other person in the same County, which ear mark and brand shall be recorded in the office of the clerk of the County Court, for the County

where such horses, cattle &c. are, for which the clerk shall receive as his fee twenty five cents, for all his services therein, and no brand or mark similar to a brand or mark already recorded shall be admitted to record; but the person having the same shall be obliged to alter them, except as herein after excepted.

S. 12. And whereas the marks and brands, already adopted, and which have been long in use in this Territory are very numerous, and it may so happen that different persons have adopted the same brand or ear mark in the same County. Be it therefore enacted That the person who has had his brand and mark the longest in use, shall have the privilege of retaining the same and have it recorded in the County where the stock is: Provided nevertheless that this privilege shall continue one year from the passing of this act, and no longer, after which time, the person who first brings his brand and mark to be recorded shall be admitted.

S. 13. And be it further enacted. That when any dispute shall arise respecting the right to a brand or mark, either party may apply to a Justice of the peace of the County who shall summon the adverse party to appear before him on a certain day therein expressed, not less than five nor more than ten days from the time of application, and the said Justice, shall upon the request of either party issue subpoenas for such witnesses, as they may require, directed to any Constable of said County who together with the same witnesses shall receive the same fees, and be liable to the same penalties, as are allowed or inflicted for such services and attendance or neglect, in the County courts and it shall be the duty of the said Justice to give

Judgment therein, a transcript whereof certified by the said Justice shall be a sufficient authority for the clerk to record the said brand and mark. Provided that every person who may think himself or herself aggrieved thereby may appeal to the next County Court to be held in the said County and not after.

S. 14. And be it further enacted, That no person whosoever after the first day of March next shall send or permit any slave or Indian to go into any of the woods or ranges in this Territory, to brand or mark, any horse, mare, colt, mule, ass, Cattle, hog, sheep or goat, under any pretence whatsoever unless the said slave be in company and under the direction of some reputable white person, who shall therein proceed according to the provisions of this act, and if any person be convicted thereof he shall forfeit and pay for every animal so branded and marked twenty dollars, recoverable by action of debt in any Court of this Territory having Jurisdiction, one half to the use of the County, and the other half to the informer.

S. 15. And be it further enacted, That so much of the act entitled "An act for the punishment of certain crimes therein mentioned passed the 30th of January 1802, as comes within the purview of this Act, be and the same is hereby repealed.

S. 16. And be it further enacted, That this act shall commence and be in force from and after the passing thereof.

William Gordon Foreman
Speaker of the House of Representatives

John Ellis President
of the Council

Approved March the 4th 1803.

William C. C. Claiborne

Governor of the Mississippi

Territory.

Act # 12

An Act to regulate Taverns and restrain Tippling Houses.

S. 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the authority of the same. That every person who shall be recommended for the purpose, to the County Court, by the adjoining freeholders of the County, shall be entitled to receive from the County Court aforesaid, a licence to keep a Tavern, for and during the term of one year from the date of such licence, and from thence until the next County Court after the expiration of the said one year; Provided That on receiving the same, the said applicant shall pay to the Clerk of said Court in specie twenty dollars for the use of the County, and it shall be the duty of the said Clerk to make entry thereof on his minutes, and within twenty days after the rising of the Court, to pay the same into the County Treasury, taking the Treasurer's receipt as his voucher for such payment, to be filed in his office; and further, the applicant before the said licence is delivered to him, shall enter into and acknowledge his bond with sufficient security in the penal sum of three hundred dollars payable to the governor of this Territory and his successors in office, conditioned for the constantly keeping and providing his said Tavern with good, clean, and wholesome diet and lodging for travellers, and stabling, provender or pasturage for horses, for and during the term of his licence, and for the due observance of all laws and ordinances, which are or may be in force in this Territory relating to tavern keepers; And in case of breach of, or not complying with the condition of said bond, it shall and may be lawful for any person in the name of the governor, to sue for and recover, in any Court having jurisdiction thereof, the penalty of said bond, and apply one half thereof to his or her own use, and the other half to the use of the County where the

cause of action may arise, and when such bond shall be executed and acknowledged as aforesaid, the clerk of the court aforesaid shall file the same in his office, and deliver the licence to the aforesaid applicant, for which, and the bond and all his services respecting the same, except the table of rates, the clerk shall receive two dollars.

S. 2. And be it further enacted, That the justices of the County Courts shall fix the rates and prices to be paid at all taverns in their respective counties, once a year at least, for liquors, lodging, diet, stabling, provender and pasturage, and may increase or diminish the same as to them may seem proper; and every tavern keeper, shall within twenty days after the rates are fixed, set up in his public entertaining room, in a conspicuous place, a fair table of rates, certified by the clerk of the court, for which the said clerk shall receive twenty five cents, there to be constantly kept, until the rates shall be altered by the court, and then a certified copy shall again be obtained and constantly kept exposed to public view as aforesaid, under the penalty of twenty dollars.

S. 3. And be it further enacted, That if any tavern keeper shall receive any greater price for any drink, diet, lodging, provender, stabling or pasturage, than by such rate shall be allowed, he or she so offending shall forfeit and pay ten dollars for every such offence.

S. 4. And be it further enacted, That it shall be deemed unlawful for any inholder or tavern keeper to permit or suffer any cockfighting or playing with cards or dice, or to keep any gaming table of whatsoever denomination, or any kind of gaming whatsoever, in his or her inn or tavern, or in any out house, tenement, yard or garden belonging thereto; and for every such offence he or she so offending shall forfeit and pay eight dollars.

S.... 5. And be it further enacted. That if any person shall presume to keep a tippling house, or sell rum, brandy, whiskey, taffia or other spirituous liquors, in less quantity than one gallon, except as is hereafter excepted; or shall sell any strong beer, porter, cider or wine in less quantity than four gallons, without a licence first obtained as aforesaid, he or she so offending shall for the first offence, forfeit and pay ten dollars, and for every succeeding offence, the sum of twenty dollars; Provided nevertheless, That nothing in this act contained shall be construed so as to prevent merchants and shop keepers from retailing liquors in any quantity above a quart, so that the same be not drank with his or their consent or privity in their stores or on the premises, where they reside or have their stores.

S.... 6. And be it further enacted, That if any innholder or tavern keeper or other person whosoever, shall give, sell, or deliver any kind of spirituous, fermented or strong liquors whatsoever, to any apprentice, servant or slave, or in any way entertain them, without the consent or permission of the master, owner, or such other person as shall have such apprentice, servant or slave in their care; every person so offending shall for the first offence forfeit and pay the sum of ten dollars, and for every succeeding offence the sum of twenty dollars.

S.... 7. And be it further enacted, That no tavern keeper inn holder or retailer of spirits shall presume to sell any rum, brandy, wine or any other kind of intoxicating liquors to any soldier or soldiers, stationed within this Territory belonging to and in the actual service of the United States knowing him or them to be such without permission from one of his or their commissioned Officers; and such tavern keeper or other person as aforesaid so offending shall for every such offence forfeit and pay the sum of twenty dollars; Provided That nothing contained in this act, shall be so construed as to extend to those who are

permitted to sell within the military lines. —

S... 8. And be it further enacted. That if any tavern or inn keeper or other person within this Territory shall presume to sell rum, brandy, or such like spirits, that is adulterated with water or any other liquor, knowing the same to be so adulterated or mixed, and being convicted thereof by the testimony of one or more credible witnesses, he or she so offending shall for every such offence forfeit and pay twenty dollars. —

S.... 9. And be it further enacted, That if any innholder or tavern-keeper, shall be convicted of being drunk in his own inn or tavern, besides the penalty consequent on the crime of drunkenness, his licence shall immediately thereupon become void. —

S... 10. And be it further enacted. That all the fines and forfeitures herein before inflicted by this act, shall be recovered before any justice of the peace for the county wherein the offence may have been committed, one half to the use of the County and the other half to the use of the person suing for the same. —

S... 11. And be it further enacted. That this act shall be in force from the passing thereof, and all laws heretofore made for regulating taverns, inns and retailers of strong liquors, and all clauses and parts of laws concerning them coming within the provision of this act, be and the same are hereby repealed,

William Gordon Foreman
Speaker of the House of Representatives
John Ellis President
of the Council

Approved March the 5th 1803.
William C. C. Claiborne
Governor of the Mississippi
Territory.

Act #13

An Act to amend the act intitled "an act for establishing and organizing a Militia in this Territory."

S. 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, That the field Officers of each and every ~~County~~ County in this Territory, shall from time to time, as circumstances may require, alter the Battalion and company lines, and lay out new company districts subject to the same regulations prescribed in the act for establishing and organizing a Militia.

S. 2. And be it further enacted. that if the Brigade Inspector shall omit to perform any of the duties required of him, by the law aforesaid; he shall for each and every Omission be fined in a sum, not exceeding fifty dollars, at the discretion of a Court Martial.

S. 3. And be it further enacted. that each and every Patroler shall be entitled to receive one dollar for each night or twelve hours he shall be so employed as a Patroler, and the Captain of each company shall upon due proofonce in every three months furnish the Patrolers with a certificate of their services, which certificate being presented before the Justices of the County Court for their approbation, shall entitle the said Patrolers to receive an order to be issued by the said Justices on the County Treasurer for the payment of their services aforesaid, and if any person shall fail to attend and perform his duty as a Patroler when duly warned thereto,

he shall for each offence, pay a fine, not exceeding two dollars to be assessed by a Court martial; Provided that no militia man shall be bound to serve as a Patrole out of his regular tour of duty, and provided further, that the aforesaid militia Law, nor any thing contained therein, shall be construed to authorise the Officer of any Patrole, or any Justice of the peace, to inflict corporal punishment, upon any free white person,

§. 4. And be it further enacted, that each troop of horse within this Territory, shall hereafter contain forty privates and when the Governor shall find it expedient, the several troops of horse so formed shall compose one Regiment, to which shall be appointed one Colonel and two Majors, and also an adjutant who shall take rank as a Captain, which Regiment except the company in the County of Washington, shall meet once in each and every year in the month of december, at the place where the Legislature may hold their session, on such day as the Brigadier General or commanding officer of the Brigade may appoint, for the purpose of holding a General Muster,

§. 5. And be it further enacted, that if any non-commissioned officer or private shall at any Regimental Battalion or company muster behave disobediently or mutinously or shall appear drunk on parade the commanding officer shall cause him to be confined during the muster, and it shall further be the duty of the commanding officer, to report the conduct of such non-commissioned officer or Private, to the next court

martial which may be holden for the purpose of assessing fines, and upon conviction, the said non-commissioned officer or private, shall be fined by the Court in any sum not exceeding twenty dollars.

§ 6. And be it further enacted: That within fifteen days after the rising of a Court martial, the Clerk thereof, shall deliver a certified list of the fines which may have been imposed by said Court, to the sheriff of the County for collection, who shall give a receipt for the same, and shall within thirty days thereafter collect the fines so imposed, and account for and pay the same, to the Lieutenant Colonel commandant or the commanding officer of the regiment, and the sheriff shall receive for collection the same commission, as is allowed for collecting other public monies, and in case the sheriff shall fail to render a just return of the fines by him collected, and account for the same as is herein directed, the Lieutenant Colonel commandant, or officer commanding the Regiment, shall on ten days previous notice, obtain, by motion in the County Court, Judgment against the sheriff for the amount of the fines with costs; and should any person charged with fines fail to make payment on demand, the sheriff is hereby authorised to make distress and sell therefor, in the same manner, as is, or may be directed in the collection of public taxes.

§. 7. And be it further enacted, That a court martial convened for the trial of any officer or officers, shall have authority to censure, suspend or cashier: Provided that the judgment of a court martial against an officer (except in the case of a Brigadier General which is otherwise provided for) shall not be carried into effect, until the same be approved of, by the Governor or commander in chief, to whom the proceedings of the Court by the president thereof, shall be transmitted; and provided also, that so much of the "act for establishing and organizing a militia in this Territory as directs, that any officer who may be cashiered by the sentence of a Court martial, shall for ever after be incapable of holding any office of honour or profit in this Territory, be and the same is hereby repealed,

§. 8. And be it further enacted, that in future the annual muster of each Regiment shall be held in the month of October in every year, under the regulations of the said act,

§. 9. And be it further enacted, That the twenty sixth and thirtieth sections of the "act for establishing and organizing a militia in this Territory, and any other part of the said law, which comes within the purview and meaning of this act, be and the same are hereby repealed.

William Gordon Forman
Speaker of the House of Representatives
John Stampley President of the
Council Pro. Tem.

Approved March the 10th 1803.

William C. C. Claiborne
Governor of the Mississippi
Territory.

Act #14

An Act to erect the Town of Natchez into a City and to incorporate the same.

§ 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the Authority of the same.

That the Town of Natchez and such parts of the adjacent lands as are contained within the following limits and boundaries shall be, and the same is hereby erected into a City; That is to say; assuming the door of the Church within said City, as a central or regulating point, and from thence running in the direction of the street immediately in front of said church which was laid off in the directions of N 30° E and S 30° W, one mile in each direction, at the extremity of which said two lines, two points will be given in the upper and lower boundaries of the said City, from which said two points running two lines at right angles to the two first lines or parallel to the streets of said City which were laid off S 60° E, one mile each; at the extremity of which last two lines, two other points will be given, which being connected by a right line will form the rear boundary of the said City; from thence returning to the two first points found in the upper and lower boundaries, and continuing said lines or boundaries parallel to the streets of the City which were laid off N 60° W to the middle of the River Mississippi or National boundary between the Territories of the United States and those of Spain; and thence along said National boundary, thereby completing the limits of the said City; which said City included within the limits and boundries herein discribed shall henceforth be distinguished, known and called by the name of the CITY OF NATCHEZ.

§ 2. And be it further enacted. That for the better ordering, ruling and governing the said City of Natchez and the Inhabitants thereof, there shall henceforth be in the said City, a Mayor who shall be keeper of the City seal; a Recorder who besides the office of Recorder, shall in case of the absence death or other disability of the Mayor, have, hold, use and execute the several duties annexed to the Mayoralty and every of them; during such absence or other disability; three Aldermen and six assistants, which Mayor, Recorder, Aldermen and Assistants shall be one body Politic and corporate in deed, fact, and name, by the name style and title of "The Mayor, Aldermen and assistants of the City of Natchez" and by the same name shall have perpetual succession, and they and their successors, at all times hereafter, by the name, style and title of "The Mayor, Aldermen and assistants of the City of Natchez" shall be persons able and capable in law to have, purchase, take and receive, possess and enjoy lands, tenements, liberties, franchises and jurisdictions, goods, chattels and effects, to grant, bargain and sell, alien, convey, demise and dispose of; to sue and be sued, implead and be impleaded, in any court of Justice whatever; and to make and use one common seal, and the same to alter and renew at pleasure.

§ 3. And be it further enacted, That the said Mayor, Recorder and Aldermen shall be appointed and commissioned by the Governor as Magistrates and Justices of the peace of the said City; which said Magistrates or a Majority of them shall have power to hold a Court of Record on the first monday of every month to be held not

exceeding three days for each month, and to be called the Mayor's Court of the City of Natchez, which said Court shall have jurisdiction of all crimes and trespasses committed within the said City, where the punishment shall not exceed a fine of fifty dollars, imprisonment for one month, whipping on the bare back not exceeding thirty nine lashes, sitting in the stocks for six hours or standing in the pillory for three hours; and of all civil actions, the cause of which hath originated within the said City, or where the defendant usually resides within the said City, or being a transient person, may be found within the same, for any sum not exceeding one hundred dollars; Provided that no citizen of this Territory, whose residence is not within the limits of the said City, shall be liable to be sued in any civil action, the cause of which hath not originated within the said City, before the said court; but shall be subject to prosecution and punishment in all criminal cases cognizable by the said court; and the said court shall decide in a summary way upon all such civil causes as are herein subjected to their jurisdiction; Provided nevertheless that if the matter in dispute be above twenty dollars the parties or either of them shall have a right to demand a trial by jury, which shall accordingly be granted by the court; provided also that in all cases where judgment shall be obtained for sums above twenty and under fifty dollars, stay of execution shall be granted for thirty days, on security being given to the satisfaction of the court, for the due payment of the amount of their judgment; and if exceeding fifty dollars, stay of execution shall

be granted for sixty days, like security being given by the debtor, and if either party shall think him or herself aggrieved by the judgment of said Court he or she shall have a right of appeal where the matter in dispute exceeds fifty dollars, to the superior court of the district of Adams, he or she giving bond with sufficient security in such sum as the court shall direct, conditioned for the prosecution of the said appeal to effect and for satisfying the judgment which the said superior Court may render therein, in case such appellant shall have the cause decided against him or her, and the said Court shall have power and authority to issue the same form of process with the change only of the style of the court, for compelling the appearance of the party or witnesses, or for taking depositions or punishing contempts, or for doing execution upon judgment, as is now practised by other Courts within this Territory and shall be executed by the officers appointed to execute such process who shall receive therefor the fees allowed by law for similar services, and be entitled to the like remedy for the recovery thereof: the said court shall have the sole right and power of licencing all and every Inn-keeper, Tavern keeper and retailer of spirituous liquors residing within the said City, under such restrictions and provisions as have been or shall be prescribed by law; any law to the contrary notwithstanding.

§. 4. And be it further enacted, That the freeholders, landholders, and house-holders of the said City of Natchez, shall have power and authority to assemble and hold a

meeting at or near the government house in the said City on the first monday in the month of April next; and then and there by a majority of votes to elect the said six assistants and also a City Treasurer Assessor and collector to serve for one year, and there shall also be in the said City, a City Clerk who shall be clerk of the Mayors Court and a Marshall; which said Clerk and Marshall shall be appointed and commissioned by the Governor, and for the better understanding of the meaning of the term, house-holder it is hereby declared that any person who shall be in the occupancy of a room or rooms, separate and apart to himself shall be deemed a house-holder and entitled to vote at the annual and other meetings of the said City; Provided that such occupancy shall have existed six months next preceding such election, and the said freeholders land holders and house holders shall have power and authority in all succeeding years to hold annual meetings at such place within the said City as a majority of the said magistrates or justices shall appoint by notification, five days previous to the time of holding such meeting; for the purpose of electing as aforesaid, six assistants, a City Treasurer assessor and collector; to serve for one year next ensuing, and when by death, removal, or otherwise any vacancy or vacancies shall happen in any of the said elective offices, the Mayor for the time being, is hereby required and directed, to call a meeting (giving at least five days previous notice,) of the

said freeholders land holders and house holders of the said City) who when assembled are hereby authorised by a majority of votes to elect such fit person or persons as are necessary to fill up and supply such vacancy or vacancies. .....

§ 5. And be it further enacted, That the Mayor, Recorder, Aldermen and Assistants, or a majority of them, (of which the Mayor or Recorder is always to be one,) shall have full power from time to time and at all times hereafter, to hold a common council within the said City, at such convenient place as the Mayor or in his absence the Recorder shall appoint; and to make such bye-laws ordinances and regulations in writing, not inconsistent with the constitution and laws of the United States & the laws of this Territory as to them shall appear necessary for the good government of the said City and the Inhabitants thereof, And the same to put in execution, revoke, alter and make anew, as to them shall appear necessary and convenient; Provided always that all such laws by them made be subject to the Inspection and Controul of the Territorial Legislature; and to appoint a clerk of the market and such other subordinate officers, as they may think necessary, for the good government of the said City, and by ordinance to require such security from the several officers, and to annex such fees to the several offices of the corporation, and to impose such fines for the refusal of office or neglect of duty or misconduct in the same, as to them shall appear necessary; and to make, limit, impose and tax reasonable fines and

and amercements, in any one case not exceeding fifty dollars, against all and upon all persons, who shall offend against the laws, ordinances and regulations of the corporation made as aforesaid, and all such fines and amercements to take demand, require and levey of the goods and chattels of such offender by warrant issued under the hand and seal of the Mayor, Recorder, or either of the Aldermen, directed to the Marshall of the said City, who is hereby required and authorised to execute the same; which fines and amercements shall be paid to the City Treasurer, to be appropriated to the use and benefit of the Inhabitants thereof, Provided always that every person, who may think him or herself aggrieved by the decision of the said Mayor or Recorder or Aldermen may appeal to the common Council, who are hereby required to hear his or her cause of Complaint and to do therein, what unto them shall appear just & equitable.

§ 6. And be it further enacted, That the said six assistants may be assembled at the usual place of holding the common Council, five days previous notice being publickly given by any two of the said assistants; which said six assistants so assembled shall be styled and called by the name and title of the Chamber of Representatives of the City of Natchez, and shall from time to time by a majority of votes have power and authority to raise such sum or sums of money to be paid by the said Freeholders, Land holders and house holders as they may think necessary for the supply of the wants of the said City; Provided that the sum

or sums so to be raised shall not in any one year exceed the sum of twenty five cents for every hundred dollars upon the amount of property in the said City, liable to assessment; which said sum or sums shall be assessed upon the said freeholders, land holders and house holders in the said City by the assessors conformably to the bye-laws and regulations to be made by the Common Council and collected by the Collector or Marshall at such time, and be paid and disposed of in such manner as the Common Council shall direct, but if the sum or sums so collected shall be found insufficient for the supply of the wants of the said City, it shall be lawful for any three of the said Magistrates to call a meeting of the free holders, land holders and house holders of the said City, by giving public Notice five days before the day of meeting, specifying the objects and the amount of the sums necessary for the carrying the same into effect; and the said meeting shall have authority by a majority of votes to order such further sum or sums to be raised as to them shall seem fit and expedient, to be assessed, paid and collected, as shall be directed by the rules and ordinances of the said Common Council.

§ 7. And be it further enacted. That this Act shall be in force, from and after the passing thereof.

William Gordon Forman
Speaker of the House of Representatives
John Ellis President
of the Council
William C. C. Claiborne
Governor of the Mississippi Territory

Approved March the 10th 1809.

#15

An act authorising certain repairs to be done upon the Jail of Natchez.

Whereas, the insecure state of the Jail of Natchez, has rendered certain repairs absolutely indispensible, for the safe-keeping of the prisoners confined within the same.

§1. Be it therefore enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, that Samuel Brooks John Henderson, and Job Ruth, be and are hereby appointed Commissioners, with power and authority to inspect and examine into the state of said Jail, and are hereby required to make an estimate of such moderate repairs, as they shall think sufficient and necessary for the safe-keeping of Prisoners within the said Jail, and the said Commissioners are further authorized, and required to contract, without delay, with any person properly qualified to execute as speedily as the nature of the work will admit, all such repairs upon an economical plan as they shall deem sufficient for the safe-keeping of Prisoners within the said Jail, taking sufficient security from the person contracting for the due fulfilment of his contract within the time limited: provided that the amount of said repairs shall not exceed the sum of three hundred dollars.

§2. And be it further enacted, That the said Commissioners, are hereby empowered to furnish the Contractor with a certificate of the amount due for the said repairs, when the same shall be completed, and which certificate, the said contractor may present before the Justices of the County Court of Adams' County at their first Court next ensuing, which said Justices are hereby authorized and required to draw an order at the

foot of said certificate, upon the County Treasurer of their proper County to be paid out of any monies, not otherwise appropriated, and the said Justices in open Court are moreover required to make provision if necessary for the amount of the said expences by including the same in the General mass of the County levies for the year next ensuing.

William Gordon Forman
Speaker of the House of Representatives
John Hampley President of the
Council pro Tem.

Approved March the 10th 1803.
William C. C. Claiborne
Governor of the
Mississippi Territory.

[illegible]

An act concerning divorce and alimony.

1. Be it enacted, by the Legislative Council, and House of Representatives, of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same, That the Supreme or Superior Court of this Territory, having equity-jurisdiction, shall from and after the passing of this Act, have Jurisdiction of all causes of Di[redacted] and allowed: provided, the parties be inhabitants of this Territory.

2. And be it further enacted, that the like process and course of practice and procedure shall be had, as is pursued in causes of divorce, as are usually had and pursued in other causes, on the equity-side of said Court, except, that the answer of defendant shall not be under Oath.

3. And be it further enacted, That divorces from the bond of Matrimony [redacted] be decreed in cases where the parties are within the degrees prohibited by law, in cases where either party is naturally impotent, and in case of Adultery in either of the parties, and also for wilful, continual and obstinate desertion, for the term of five years; but the decree, or sentence of divorce, in such cases, shall not render illegitimate the issue theretofore born.

4th And be it further enacted, That divorces from the Bona of Matrimony shall also be decreed, where either of the parties, had another wife or husband, living at the time of such second or other marriage, and that all marriages, where either of the parties shall have a former wife or Husband living at the time of such marriage, shall be invalid, from the beginning and absolutely void.

§5 And be it further enacted, That if it appears to the Court, that the adultery complained of is occasioned by collusion of the parties, and done with intention, to procure a divorce, then no divorce shall be decreed.

§6 And be it further enacted, That divorce from bed and board shall be decreed for extreme cruelty, in either of the parties; but if it appear that the cruelty complained of is occasioned by the collusion of the parties, and done with intent [illegible] such divorce, then no divorce shall be decreed.—

§7 And be it further enacted, That when a divorce shall be decreed on account of the parties being within the prohibited degrees, or for the cause of Adultery or extreme cruelty, the Court shall and may in every such case, take such order touching the care and maintenance of the children of that marriage, and also touching the maintenance and alimony of the wife, or any allowance to be made to her, and if any the security to be given for the same, as from the circumstances [illegible] the parties, and nature of the case, may be fit equitable and just.—

§8 And be it further enacted, That if any Persons who shall be divorced on account of their being within the prohibited degrees shall after such divorce cohabit together, such persons so offending shall be liable to all the pains and penalties provided by the then existing laws against incest.

§9 And be it further enacted, That if any persons cohabit together after a divorce, for the cause of prior marriage, or adultery, such persons so offending shall be liable to all the pains and penalties provided by the laws then existing against Adultery.—

§10. And be it further enacted, That in all causes of divorce brought or to be brought into any of the Courts of this Territory, if the party against whom complaint is or shall be made, hath removed or shall (after the cause of complaint hath arisen) remove without the Jurisdiction of the

the said Court, so that the process thereof cannot be served or if served, the party cannot be compelled to appear, or answer or plead, it shall and may be lawful for the Judges of the said Court, on bill filed, and due proof that the defendant hath removed as aforesaid, to order a hearing on the fact charged in said bill and thereupon to pass a decree in the same manner as if the defendant had appeared and were present in court: provided nevertheless, that a copy of said Order for hearing be published in one of the public newspapers of this Territory for the space of three months at least before the day appointed for the said hearing

William Gordon Forman
Speaker of the House of Representatives
John Stanley President of
the Council Pro. Tem.

Approved March the 10th 1809.

William C. C. Claiborne
Governor of the Mississippi
Territory.

Act # 17

An Act providing for the Inspection of Cotton.

§ 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the authority of the same, That for the inspection of cotton pursuant to this act, there shall be established public ware houses, at the several places hereinafter mentioned, that is to say 1st in the County of Claiborne, at the customary landing, near the mouth of the Bayou pierre 2nd in the County of Jefferson, at the customary landing, near the mouth of Coles-Creek, 3d in the County of Adams, at the landing of the Town of Natchez, 4th in the said County of Adams at the landing known by the name of St. Catharines, 5th in Wilkinson County near Fort Adams and 6th at Clarks-ville; both the last under one inspection, and 7th in Washington County at Fort Stoddart, in all making six inspections

§ 2 And be it further enacted That the following named persons be and are hereby appointed Commissioners viz Samuel Gibson, Arthur Carney and Ebenezer Smith; for the County of Claiborne Cato West, John smith and Joseph Calvit, for the County of Jefferson; George Fitzgerald Sutton Banks Thomas Wilkins Abijah Hunt and Adam Tooly for the Natchez. Philander Smith Jesey Carter and Caleb King for St Catharines in the County of Adams. Jno Ellis, Henry Hunter and Edward Randolph, for the County of Wilkinson. and James Collier Ranson Harwell and Samuel Henry for the County of Washington, which said Commissioners or a majority of them, are hereby authorised and required to visit and examine the landing

places above enumerated in their respective Counties, and select the most favourable position for Ware houses, and shall call upon the proprietors thereof, or if such Proprietors are under age or absent, upon their Guardians, known Attorneys, executors or administrators, and demand, whether they are willing, to construct at their own proper cost, such ware houses as shall be found necessary for the reception, and inspection of Cotton, in consideration of certain rents and storages which to them shall accrue, as hereafter directed; and in the event of obtaining the consent of the said proprietors guardians, Attorneys, executors or administrators, or any of them, the said Commissioners, for their respective counties, shall make an estimate of the magnitude and extent of the said ware-houses, sufficient for the reception of the cotton to be inspected, with one or more cotton presses as hereafter directed, and scales or ballances, leaving sufficient space for the commodious inspection and weighing of the Cotton; and the said Commissioners or a majority of them, shall take bond with sufficient security in the sum of three thousand dollars, from such proprietor, guardian, attorney executor or administrator, conditioned for the building or compleating said Ware-houses, and keeping them in repair, to be constructed of strong plain materials, the floor thereof to be raised at least eighteen inches above the ground and above the approach of the water of inundations with a good and sufficient roof, and to be otherwise well secured by

necessary locks and bolts within as many doors as shall afford convenience for the commodious inspection of Cotton. —

S. 3. And be it further enacted. That if any of the Proprietors guardians, Attorneys, executors, or administrators shall decline engaging to erect ware houses, or shall be unable to give sufficient security, then and in that case, the commissioners in their respective counties, are hereby authorised and required, to mark out one acre of ground for the site of the ware house, the value whereof they shall cause to be fairly estimated for the purpose of tendering the amount of such valuation to the said proprietor, guardian, attorney, executor or administrator, to be ascertained by three Freeholders in the County who shall be appointed by one of the Territorial Judges or any two Justices of the peace of said County. —

S. 4. And be it further enacted. That in the event of the proprietors declining, or being unable to engage in the business of erecting ware houses, the Commissioners shall be at liberty to contract with any other individual, upon the same principles and subject to the same conditions above prescribed, which individual shall in that case, pay to the proprietor the stipulated price for the lot of one acre of ground, upon which the ware house is to be erected, and the said individual contracting to build a ware house, at his own proper cost, shall be seized in fee of said lot of one acre of ground, subject nevertheless to the following condition, That if any

of the ware houses to be built by the public, or by private persons, shall hereafter be discontinued, the original proprietor, his heirs or assigns, upon returning the price paid for the land, and paying a reasonable estimate for the buildings, shall be thence forward seized of his former estate.

S. 5. And be it further enacted: That if no person offers to covenant for the erection of ware houses, at his own proper cost, it shall be the duty of the said commissioners, to prepare a description of the building, and advertize, the same for the information of those, who may be willing to contract at a stipulated price, for the furnishing all materials, and building and completing the said ware houses, or any of them, which said advertisements, shall be inserted and continue for one month in one or more of the public newspapers of this Territory, at the end of which term of one month the said commissioners or a majority of them shall be at liberty to close the contract with the person, who shall have made the most favourable proposals; Provided that in the opinion of the said commissioners or a majority of them, the price proposed shall not be too high; but in that case the commissioners or a majority of them shall be at liberty to use their discretion, to delay the closing of the contract, until the terms proposed shall appear to them to be equitable; and in all cases it shall be their duty to take bond, with sufficient security for the due fulfilment of the contract, to be performed in as short

a time, as in their judgment the circumstances of the case shall admit, and when the said Commissioners shall be notified, that any such ware house, so to be built by contract shall be completed, they shall call to their aid, one or more expert, and intelligent workman, skilled in the particular branch of house building, and having inspected the said ware house and pronounced it to be built, according to contract, the said commission=ers or a majority of them, shall report, and certify the same, to the Justices of the County Court, of their res==pective Counties, at their first court next ensuing, stating the price of the contract; and the said Justices shall have authority to draw an order at the foot of the said certificate of the said commissioners in favour of the contractor upon the Territorial Trea==surer, for the amount thereof, who is hereby directed to pay the same out of any monies, not otherwise appropriated.

§. 6. And be it further enacted. That it shall be the duty of the said Commissioners or a majority of them, to purchase, contract for, or cause to be prepared, and ready to place in the said ware-houses, cotton presses of considerable power, and of the most commodious form (iron screw presses being preferable if to be procured by contract) and so constructed as to admit of an elevation of beam, comprehending five feet between the beam and sill, and of a depression of the beam, so as to reach within twenty inches of the sill, that is to say; one or more cotton presses for each ware house, as shall

in the judgment of said commissioners be sufficient for all the purposes of convenient inspection, and the said commissioners or a majority of them shall cause to be purchased, and placed in each warehouse, one good beam, scales and weights; or patent steel-yards, calculated to weigh with accuracy five hundred pounds or more, with a proportion of small weights of such standard as is in general use throughout the United States; and the persons who shall supply, by contract or otherwise, the said cotton presses and weighing machines, being furnished by the commissioners with certificates of the same, stating the respective prices contracted for, may present the said certificates to the Justices of the County at their first Court, to be thereafter held, which said Justices are hereby authorised and required, to draw an order at the foot of said certificate, for the amount stated in favor of the furnisher, upon the Territorial Treasurer, who is hereby directed to pay the same out of any money, not otherwise appropriated.

S. 7. And be it further enacted, that as soon as the said ware-houses or any one or more of them shall be so far completed as that cotton may be received and inspected therein, it shall be the duty of the said commissioners, to give public notice, in one or more of the business papers of this Territory, to the intent that all persons who are in the habit of exporting their cotton

from the landing places, where any one or more of said ware-houses, shall be in a condition to receive cotton for inspection shall, thence forward, deposit their cotton in square bales within the said ware-houses, to be inspected according to the provisions of this act and if any person shall export, or put on board or receive into any boat or vessel any cotton to be exported therein, before the same shall have been inspected, which according to the directions of this act, ought to have been deposited in some one of the public ware-houses in order to be inspected, such person or persons so offending, being the proprietor proprietors of the cotton, shall forfeit the same so shipped, but if the said cotton cannot be obtained, then the value of an equal quantity of first quality cotton and the master of the boat or vessel receiving the same shall forfeit and pay the sum of fifty dollars for each and every bale so attempted to be exported, to be recovered by action of debt in any court having competent jurisdiction, one moiety thereof to the use of the person who shall prosecute the same to effect, and the other moiety thereof to the use of the territory.

§. 8. And be it further enacted. That it shall be the duty of the proprietors, of the public ware-houses to attend in person or to appoint a storekeeper to each ware house, who shall at all times be ready to receive into the said warehouses cotton in square bales, to be therein deposited for inspection, and the said proprietors shall give bond and security

to the Inspectors who shall be appointed hereafter payable to the Governor and his successors in office in the sum of ten thousand dollars, conditioned for the true performance of the duty to be performed by himself or the said store keeper, and for the safe keeping, and preserving of all cotton to be deposited in the said warehouses; but it is understood, that the said proprietors shall not be liable for losses from unavoidable accidents from fire or other causes; but only to be answerable for losses arising from negligence or inattention to duty; and where any of the said warehouses shall be built at the public expence it shall be the duty of the Inspectors to be commissioned for the same to engage a person of trust and confidence, whose residence near the ware house, shall enable him to attend to the receipt and delivery of all cotton deposited, in the ware house for which he shall issue receipts and enter the same in a book to be kept for that purpose, and as a full compensation for his services he shall receive ten cents for each and every bale of cotton so deposited for inspection.

§ 9. And be it further enacted. That all cotton brought to any of the public ware houses, shall be viewed and inspected, by two persons, to be thereunto appointed, who shall be called inspectors, which said inspectors, shall be appointed in the following manner, that is to say; The grand Juries of the respective

districts, at the first superior Court which shall be held after the passing of this act, and yearly thereafter, shall nominate for each inspection six persons residing within the same County, who shall in their opinion possess the talents, and qualifications necessary to constitute a good inspector, which nomination shall be certified to the Governor by the clerk of the superior Court, and out of the said six persons the Governor shall commission two to execute the office of inspectors, at such inspection, and in default of such nomination, by the grand juries as aforesaid; the governor by and with the advice of any two members of the legislative Council, shall appoint such persons, as he shall think fit to be inspectors, at such inspection, and also in case of the death, resignation or removal of any inspector, the Governor shall and may, appoint any person named in the last recommendation from the Grand Jury for that inspection where the vacancy shall happen, but if there has been no recommendation by the Grand jury or none of the persons named will accept of the office; the Governor shall in that case with the advice of any two members of the Council, nominate any other person he shall think fit, and besides the two inspectors nominated as aforesaid, the governor shall appoint and commission one of the persons recommended, with such inspectors, or if none are recommended, by and with the advice of any two members of the Legislative Council, to be an additional inspector at each of

the ware house, which additional inspector shall officiate as such, only in cases of disagreement in opinion of the other inspectors, or where either of them through sickness or other cause shall be absent, or unable to attend to his duty, or shall call for the inspection of his own Cotton at the ware house whereof he is inspector and the said additional inspector, shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the fees of inspection prescribed by this act in proportion to the time he shall officiate, if acting as arbitrator between the other two Inspectors; but if officiating in the place of an absent inspector, then to receive the fee the said absentee would have been entitled to, were he present and performing the duties of his Office +

§ 10. And be it further enacted, That where any person once commissioned as inspector, shall be recommended the succeeding year, the same shall be a sufficient appointment, without any new commission, and so from year to year so long as he shall be recommended: Provided that each inspector shall annually give Bond with security in the sum of one thousand dollars, conditioned for the faithfull discharge of his duty, which bond shall be payable to the Governor and his successors in office, for the use of the Territory, and shall be filed in the office of the Territorial Treasurer; and in case any inspector shall fail to discharge the duties required of him by this act

§. 11. And be it further enacted, That it shall be the duty of the owners of gins, to put up their cotton into square bales of such form and dimensions that the said bales coming from different gins be commodiously inspected under the same press, that is to say, the cords shall be passed round the bale through eight parallel grooves, above and below, which grooves shall be precisely seven inches apart from the corresponding edges of the grooves and the boxes in which the cotton is pressed shall be from four feet six, to four feet ten inches in length, and from twenty to twenty two inches wide.

§. 12. And be it further enacted, That the mode and manner of proceeding to inspect cotton shall be as follows; that is to say, when any person shall be desirous of having his cotton inspected, he shall give notice to the two acting inspectors that his cotton is ready for inspection at the ware house, and the said inspectors, shall name a day and hour, not exceeding three days from the notice, at which time the inspectors shall attend, unless necessarily engaged in the inspection of the cotton of some other person, and the store keepers shall provide labourers to handle the cotton and work the presses under the direction of the inspectors, who shall cause each and every bale to be placed under the press, and the ropes being untied by the aid thereof, the beam shall be elevated sufficiently to permit

the opening and separation of the cotton in the bale by means of pointed levers or other inventions so that the cotton may be viewed and inspected in all parts of the bale and if it shall appear to the inspectors that any cotton has been put up in a fraudulent manner so as to add to the weight thereof by mixture of the seed, or any foreign matter, or if the quality thereof be base and unmerchantable, the Inspectors shall condemn the same to be burned, which shall be carried into effect immediately by the keeper of the ware house (under the direction of the Inspectors), for which service he shall be allowed at the rate of twenty five cents for every bale so burned; moreover the owner of the cotton shall pay a fine to the Territory of fifty dollars per bale for every bale so condemned to be burnt, Provided that if any person may think him or herself aggrieved by the judgment of the said inspectors he or she may appeal from their decision and have the same reinspected as hereafter directed by this act, but if the said inspectors shall find that any cotton of a good merchantable quality, shall have been debased by the mixture of some impurities which shall be evidently the result of negligence and not fraud, such cotton shall not be condemned to be burnt, but the owner shall be obliged to pay the usual price of inspection, and shall be at liberty to take it home and have it picked and repacked so as to render it fit to pass inspection, and if the inspectors shall agree that the cotton inspected is good, sound, well conditioned, merchantable and clear of trash, then the inspectors shall order the same to be baled up, and weighed

in the scales or patent steelyards provided for that purpose, and shall be marked as follows, that is to say the Inspectors shall direct an oak board or shingle, which shall have been provided by the owner of the ware house, for each bale about 20 inches long four inches wide and one half inch thick to be placed on the flat of the bale and secured under the ropes, on which shall be branded with brass stamps to be provided for that purpose, and burned into the wood, the word "Natchez" with the number and weight of the bale; which said stamps the Inspectors first Commissioned are authorized to procure at the public expence; Provided that the said Inspectors shall be authorized to discriminate two qualities of good Cotton in this Territory; the first quality shall be such as is prime, fair, of strong fibre and clean of impurities except such as shall, in the judgement of the inspectors be unavoidable; the second quality shall be such as is clean and good but of less strength of fibre or such as being in itself prime, is debased by a slight admixture of motes or particles of leaves, but not so much as to require being picked over; and no other qualities of cotton shall be permitted to be exported, and all cotton inferior to the second quality shall be returned to the owner or burnt as directed by this act; the inspectors are enjoyned to examine carefully the strength of the fibre of cotton and if they shall find that the staple of the said cotton, is weak, tender or injured by the Gin and unfit

to resist the operation of spinning into a fine thread; altho the said cotton might in other respects appear to be clean and pure, in that case, such cotton shall not pass inspection, but the owner upon paying the fees of Inspection shall be permitted to take it back for home consumption, and the Inspectors are hereby directed to brand on the said oak board the quality of the cotton in the manner following to wit.

N°. × NATCHEZ × Q I . 300 . I	N°. × NATCHEZ × Q 2 . 324 . 2

and the inspectors at such ware house shall issue certificates of inspection for any number of bales in one and the same certificate as shall best accomodate the views of the owner of the cotton in respect to sales or exportation, and no inspector shall under any pretence whatsoever issue a certificate for any cotton, other than shall be printed or engraved, the necessary blanks only being left, to be filled up by writing, and each certificate shall be sealed with one common seal, the device whereof shall be a cotton press, with a bale of cotton under it and shall have for legend NATCHEZ COTTON INSPECTION and which certificate shall be in the form following viz.

Mississippi territory

NATCHEZ × COTTON × INSPECTION ×

NATCHEZ

N°.

Ware House

We Certify that we have inspected bales of cotton the quality property of and have approved and passed the same as merchantable being of the quality marked and numbered as per margin and hereby allowed to be exported. dated day of AD 180

Inspectors

Lib.

S. 13 And be it further enacted. That if the said two Inspectors shall at any time disagree concerning the quality of

any cotton brought for inspection to any ware house under their charge, they shall as soon as conveniently may be, call in the additional Inspector appointed to such ware house, who shall determine and pass or reject such cotton, and if he shall pass the same his name shall be entered in a book kept by the inspectors, opposite the mark number and weight of the bale or bales by him passed together with the name of the inspector at such ware house who shall have officiated jointly with him, and if any person shall think himself aggrieved by the judgment of the Inspectors he shall have a right of appeal, in the case only of cotton being condemned to be burnt, of which he shall give immediate notice in writing to the said inspectors, and they shall thereupon desist from ordering the cotton to be burnt; provided that within ten days the person complaining shall make application to a justice of the County Court, who is hereby directed and authorised to summon without delay five persons of skill and knowledge in the article of cotton, of which number the additional Inspector shall be one, if he did not assist at the first condemnation, which five persons after being sworn to determine the quality of the cotton to the best of their judgment, shall have authority to inspect the same and by a majority of their number affirm or reverse the judgment of the two inspectors who shall have condemned the said cotton, if the judgment shall be reversed the owner of the cotton shall be allowed to carry home and pick

his cotton, but if the judgment shall be affirmed the cotton shall be burnt, as directed by this act, and moreover the owner shall pay an additional fine of ten dollars for any quantity not exceeding ten bales and for any greater number of bales at the rate of one dollar per bale.

§ 14. And be it further enacted, that before any person shall receive from the inspectors a certificate that his or her cotton has been passed and licence granted for exportation, he or she shall pay into the hands of the inspectors or either of them at the rate of one dollar and thirty seven and a half cents per bale for every bale inspected and passed, and the said inspectors shall pay out of the same at the rate of sixty two and a half cents per bale to the proprietor of the ware house for storage and labourers; provided the same does not remain stored more than two months; and if longer, it shall be subject to the additional sum of twelve and a half cents payable by the proprietor of said cotton, to the owner of the ware house for each month the same may remain there after; and where any ware house shall have been built at the expence of the public, thirty seven and a half cents per bale shall be paid to the person furnishing the labourers, and shall retain seventy five cents per bale as a compensation for their own services at the ware houses, and for issuing certificates; and every store keeper or ware house man is hereby forbidden to suffer any inspected cotton for which he may have given

a receipt to be taken from his ware house until the owner shall produce a Certificate of the Inspector, authorizing the exportation of the same, and if the said Ware house man shall suffer any bales of Cotton to be taken away other than such as are enumerated in the Certificate he shall forfeit and pay two dollars per bale for every such unspected bale so taken away; Provided that cotton directed to be picked or returned for home consumption, may be taken away upon a written order of one inspector.

S. 15. And be it further enacted, that it shall be the duty of the inspectors, to order the ware houses, presses and scales to be kept in good repair, and if either of those objects belonging to the Public, shall be in danger of beomeing unfit for use it shall be the duty of the inspector to cause the same to be repaired without delay at the public expence.

S. 16. And be it further enacted that all inspectors shall at the end of the year for which they shall have been commissioned, account with the Territorial Treasurer for all monies, received or which ought to have been received by them, by virtue of this act, deducting such monies as are due to themselves and expended for public services, of which they shall state correct accounts, and present a copy of the same to the Justices of the County Court of their proper County, at their first court to be thereafter

held, and if the said accounts shall be approved of, the said Justices shall certify the same, to the Territorial Treasurer, who shall receive or pay the balance of the said accounts as the case may be; and the Inspector shall moreover furnish the Territorial Treasurer with a true state=ment of all the cotton inspected the preceeding year at their ware-house and every Inspector failing therein and neglecting to give in such accounts or furnish such certificates for three months after the County Court succeeding the expiration of the year, shall forfeit and pay the sum of one hundred Dollars to the use of the Territory.

§. 17. And be it further enacted. That where cotton coming from a public Gin shall be rejected as impure or inferior, or condemned to be burnt on acco unt of base and unmerchantable quality, the owner of the Gin shall be liable to make good all the damages to the owner or holder of the cotton, unless he can prove by the receipt or otherwise that the cotton delivered was of the same quality with that found in the bale; and the owner or holder of the cotton receipt in order to identify the same shall before he delivers it to the ginner endorse on the back thereof the amount received with his name subscribed thereto.

§. 18. And be it further enacted. That this act shall commence and be in force from and after the first day of September AD 1803.

day of September A.D. 1803.

William Gordon Foman
Speaker of the House of Representatives
John Stampley President
of the Council Pro Tem

Approved March the 10th 1802.

William C. C. Claiborne
Governor of the Mississippi
Territory. —

Originated in the House of Representatives
Saml. Carney
Clerk.

Filed in the Secretary's office
for the Territory of Orleans
Orleans

[illegible]

An Act for the settlement and Relief of the Poor.

S. 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the Authority of the same That it shall be the duty of the Justices of the County Courts, in their respective Counties, at their first Courts, which shall be held after the passing of this act, and yearly thereafter to appoint one or more Overseers of the poor in each Captain's district, to serve for the term of one whole year, or until another Overseer shall be appointed. and any person so appointed, who shall refuse or neglect to serve, as Overseer of the Poor, unless disqualified by age Infirmity (of which the Justices shall judge) shall forfeit and pay fifty dollars; to be recovered with costs, by action of debt in any Court having Competent jurisdiction, for the use of the County; Provided that no person holding any Office or imployment under the government shall be compelled to serve as Overseer of the poor so long as he holds the same, and in case of the refusal or inability of any person to serve as Overseer of the poor, it shall be lawful for any three Justices during the vacation of the County Court to appoint a new overseer of the poor, for the remainder of the year in room of the said person unable or refusing to serve; which said new Overseer shall be subjected to the same duties and penalties, which were obligatory upon the person appointed Overseer by the County Court; and

and every overseer so nominated and appointed, shall immediately after his nomination, take an oath or affirmation respectively, according to law, before any judge or Justice, that he will discharge the duties of overseer of the poor truely, faithfully and impartially, to the best of his knowledge and ability.—

§ 2. And be it further enacted. That it shall be the duty of the Overseers of the poor, each in his respective district, to provide for the indigent, lame, blind and others not able to maintain themselves, and may also provide houses nurses and Physicians, in such cases as they shall think necessary; the expences of which shall be provided for in the annual county levy, and it shall be lawful for the Overseers of the poor to contract with any person or persons for keeping, maintaining and imploying any or all such poor, as shall be proper Objects of relief, and there to keep, maintain and imploy all such poor persons and take the benefit of their work, labour or service, towards their maintenance and support; and if any poor person shall refuse to be lodged, kept, maintained and employed in such manner as the Overseer shall direct, he or she shall be struck off from the Overseer's list, and shall not be entitled to receive relief from the Overseers, during such refusal, and the said Overseers shall make fair entries in a book of the names of all the poor within their respective districts with the time, when each of them became chargeable, together with the amount of all charges, costs, and expences—

him or her, but if such poor person be sick or dis-
-abled, and cannot be removed, without danger of life;
the overseer shall provide for his or her maintenance
and cure, at the charge of his or her County; and
after recovery, shall cause him or her to be removed,
and the County wherein he or she was legally
settled shall repay all charges occasioned by the sick-
-ness, maintenance and cure of such poor person,
and for removeing him or her, and also all charges
or expences if such person shall die before removal,
and it shall be the duty of the overseer of the distrit
to which the poor person belongs to receive and provide
for the person or persons so removed, and in case of refusal
the said poor person or persons, may apply to any
two Justices of the County for relief as herein before
directed. and the overseer who shall have made the
disbursement being furnished with a Certificate
of said expenditure by the Justices of the County
Court of his proper County shall apply to the
Justices of the County Court of the County to which
the said poor person or persons shall belong, which
said Justices last mentioned are hereby directed to
draw an order on the Treasurer of their proper County
for the reimbursement of said Expences.

§. 5. And be it further enacted, That where any dispute shall
arise respecting the residence of any poor person; the
Court of any County adjacent and not interested,
is authorised to take cognizance thereof and determine
the same.

§. 6. And be it further enacted, That the Overseers of the poor
shall make returns to the County Courts twice a year of

the poor Orphans in their districts and of such children within the same, whose parents they shall judge incapable of supporting them, and bringing them up in honest ways, and the said Courts are hereby authorised to direct the said Overseers, or either of them to bind out such poor orphans and children apprentices to such person or persons as the Court shall approve of, untill the age of eighteen years if a male, or sixteen years if a female.

§ 7. And be it further enacted. That any corporate town which may now or hereafter exist within this Territory, is hereby empowered and required to provide for and maintain the poor within the limits of their said town, seperately and distinctly from the poor of the County, and any two magistrates of any corporation Court are hereby empowered by a warrant under their hands to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for six months last past before such removal, and in like manner the overseers of the poor within the County may apply to any Justice, who is hereby authorised and required, by warrant under his hand, to cause to be removed into any corporate town, any poor person, who shall have left his usual residence in said town, and gone into the County; and the Corporations of said towns are hereby impowered by a poll-tax or by a tax on property, to levy and assess annually upon their respective towns all charges incurred for the support and maintenance of their poor,

§ 8. And be it further enacted. That the Father and Grand Father, the mother and grand mother and the descendants of any poor old, blind, lame and impotent person or other person not able to work, being of sufficient ability, shall at their own charge relieve and maintain every such poor person as the Justices shall direct at their next County Court in their respective Counties or the Corporation Courts in their respective towns on pain of forfeiting eight dollars for each month they shall fail therein.

§ 9. And be it further enacted. That if any person commanding a ship, vessel or boat, shall import into this Territory, or bring to the shores thereof any Infant, lunatic, maimed, aged, infirm person or a vagrant who may be judged to become likely to be chargeable to the Territory; it shall be lawful for any Justice of the County Court, or for any Magistrate of a Corporation Court, to Compell such person commanding such vessel to give sufficient security to indemnify the Inhabitants of this Territory from any charge that may come or be brought upon them by such Infant, lunatic, maimed, aged, infirm or vagrant person, coming into, or living within this Territory; or otherwise to transport such person beyond the limits of this Territory.

William Gordon Thomas
Speaker of the House of Representatives
John Ellis President
of the Council.

Approved March the 10th 1803.

William C. C. Claiborne

Governor of the

Mississippi Territory.

Act #19

An Act enabling Lewis Kerr to practise law in the several Courts in this Territory.

Whereas Lewis Kerr late of the Northwestern Territory, attorney and Counsellor at law, lately applied for admission to the Bar in this Territory, and certain doubts, have arisen concerning his eligibility under the laws, now in force, regulating the admission of Practitioners of law.—

Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same,

That the said Lewis Kerr be, and is hereby made, constituted and declared to all intents and purposes, eligible to practise as an Attorney at Law, Counsellor at Law, and otherwise in all and singular the several Courts of Law and Equity, now being, and hereafter to be in this Territory, in manner and form, and under the same regulations and restrictions, as others resident in the said Territory, are, or may be, or become qualified so to practise as aforesaid in the same, according to the laws, usages and practice thereof, any law, usage, rule, or practice to the contrary notwithstanding: Provided, always, that nothing in this act contained, do, or be construed or understood, in any manner to repeal, suspend, impair, abridge, or in anywise alter the Statute of this Territory, entitled, "An act to amend an act concerning Counsel and attorneys at law"; or any part thereof, or any of the rights, powers, or privileges, by the same granted or confirmed, or any other Statute, which may now be in force, touching the Admission of persons

to

to practise law in this Territory.

William Gordon Lommano
Speaker of the House of Representatives

John Stampley President
of the Council Pro Tem

Approved March the 10th, 1809. —

William C. C. Claiborne
Governor the Mississippi
Territory.

Act #20

An Act concerning certain Records therein mentioned.

S. 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened and it is hereby enacted by the authority of the same. That the late judge of Probate of the late County of Pickering, shall deliver unto the Clerk of the County Court, for the County of Jefferson, all original papers, of every kind whatsoever belonging to the probate Office together with all books of records and minutes belonging to the same, to be by said Clerk kept and preserved as part and parcel of the records of the County Court of his said County of Jefferson, and his receipt to the said late judge of Probate shall be to him a full and sufficient discharge therefor.

S. 2. And be it further enacted. That the late Prothonotary of the Court of Common pleas of the County of Pickering aforesaid, shall deliver to the Clerk of the County Court for the County of Jefferson, on or before the first day of June next all records, books Original papers and copies of whatsoever kind, belonging heretofore to the said prothonotary's office, to be by said Clerk preserved and kept in his office, as part and parcel of the records thereof, and his receipt for the same, to the said prothonotary shall be a full and valid discharge to him.

S. 3. And be it further enacted. That the late recorder of the County of Pickering aforesaid, shall deliver to the

aforesaid clerk of the County Court, for the County of Jefferson, the books of record, and all papers (if any there be) of whatsoever nature and kind, belonging to the Recorder's Office of the County of Pickering, which the clerk aforesaid shall keep and preserve as belonging to his office, and his receipt to the aforesaid Recorder, shall be a full and sufficient discharge for the same;

S. 4. And be it further enacted, that the late judge of Probate, Prothonotary and recorder aforesaid, shall be entitled to collect the legal fees of office now due to them, and to have, and use all the ways and means for the recovery of the same, as are provided by law for the recovery of the fees due to the clerks of the County in this Territory.

S. 5. And Whereas the late judge of Probate, Prothonotary and recorder of the County of Adams, have already delivered to the clerk of the County Court for the said County of Adams, the records and papers belonging to their respective offices, be it further enacted, that the same shall be and remain as part and parcel of the records of the office of the said clerk of the County Court for the said County of Adams, and the said clerk and his successors in office, shall be entitled to certify the same.

S. 6. And ~~Whereas no legal~~ provision hath yet been had for the safe keeping, preserving and certifying the records and papers of the office of clerks and recorders, which were kept during the adminis=

=tration of the spanish government, be it therefore further enacted, that the governor shall immediately after the passing of this act, appoint and commission some person properly qualified to keep translate and preserve the same, and the said officer so appointed is hereby authorised to give copies of all and singular the said papers and records whenever thereunto requi=red, and certify the same under his hand and official seal, for which he shall receive a fee of twenty five cents for every hundred words, and for every translation certified as aforesaid a fee of fifty cents per hundred words, and the person so appointed, before he enters upon the exercise of his office shall give bond and security payable to the Governor and his successors in office in the penal sum of five thousand dollars, conditioned for the safe keeping of the said papers and records and the faithfull discharge of his office, which bond shall be lodged in the office of the secretary of this Territory, and may be sued in suit by the party or parties injured, in his or their own name, and shall not bec=ome void upon the first recovery, but may from time to time be sued in suit, by action of debt untill the whole penalty be recovered.

William Gordon Lowman
Speaker of the House of Representatives
John Stampley President of the
Council Pro Tem.

Approved March 10th 1809.

William C. C. Claiborne
Governor of the Mississippi Territory.

[illegible] # 21

[illegible]

oath thereof before a magistrate and receiving a certificate of such oath to levy distress on the goods and chattels of such person, without delay, for the amount of tax with which such person is chargeable.

§ 7. Be it further enacted. That all Warrants and drafts lawfully authority on the Territorial Treasury, shall be received by the Collectors of payment of public and County taxes respectively.

§ 8. Be it further enacted. That two per cent shall be and Stamp Duties of taxes given, or charged to be by him collected, in addition to the three per cent allowed by the general law.

§ 8. And be it further enacted. That so much of the aforesaid act as imposes on attorneys at Law and Doctors of Physic an annual tax of five dollars each and such part thereof as requires an oath to be taken by persons giving in lists of taxable property and also all parts and clauses of laws coming within the purview and meaning of this act be and the same are hereby repealed.

§ 9. And be it further enacted, that this act shall be in force from and after the passing of the same.

William Gordon Forman
Speaker of the House of Representatives

John Ellis President
of the Council

William C. C. Claiborne
Governor of the Territory of Orleans

Approved March the 13th 1809.

(5) An Act additional to an Act entitled "An Act ascertaining the number of Attorneys General to be appointed in the Mississippi Territory, for fixing their salaries and directing their duty in office" and for other purposes.

§.1. Whereas no adequate provision is made by which the Attorneys General can draw their salaries and fees from the Territorial Treasury. Be it therefore enacted by the Legislative council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, That each Attorney General shall twice in every year produce an account of the salaries & fees which may be due him from the Territory to the Supreme court of the District for which he is appointed who shall thereupon proceed to examine such claim or demand, and on being satisfied that the same or part thereof is justly due, they shall allow the same or such part as to them shall appear just, and shall thereupon cause a record thereof to be made and it shall be the duty of the respective clerks of the said Courts on the application of the party to whom such allowance shall have been made to make out & deliver to him a certificate under his hand & seal of the Court, therein specifying the sum due, the name of the claimant, and the time the same was allowed, which certificate the Territorial Treasurer shall and is hereby authorized to receive and pay the sum specified therein to be due to the claimant.

§2. Such be it further enacted. That each attorney General acting in behalf of the Territory shall be allowed the following fees and no more: For every bill found in capital cases the sum of five dollars, and for every bill found in inferior cases whereupon a conviction shall be had the sum of five dollars: Provided nevertheless if the Territory shall fail in the prosecution of any inferior offence the court may at their discretion and on motion of the attorney General if the prosecution appear to be frivolous or malicious order the prosecutor to pay costs.

§3. And be it further enacted. That the ninth section of the act entitled "An act to establish the fees of the several officers herein after named" and all laws and clauses of laws coming within the meaning and purview of this act be and the same are hereby repealed.

William Gordon Forman
Speaker of the House of Representatives
pro tem His President
of the Council

William C. C. Claiborne
Governor of the Mississippi
Territory

Approved March the 13th 1808.

An act additional to an act entitled "An act ascertaining the number of Attorneys general to be appointed in the Mississippi Territory, for fixing their salaries and directing their duty in office."

H.B.

Originated in the house of Representatives.

Samuel Gwin Speaker pro tem.

Met # 23

Be it enacted by the Governor,
Council and House of Representatives of the
Mississippi Territory in general Assembly convened
and it is hereby enacted by the authority of the
same, that from and after the passing of this
act the boundary line between the two Counties
of Jefferson and Claiborne shall be
run as follows, to wit, beginning on the bank of the
river Mississippi at the lower end of the Bluff
Shell, running thence a direct course to
the nearest part of the tract of Land
now occupied by Robert Trimble, on the waters
of Bayou Pierre, continuing the
same course until it shall intersect the
road going from Henry Green's plantation
to the grindstone ford, and thence due
east to the territorial line, and that the
seat of Justice for the County of Claiborne

aforesaid be and the same is hereby established at the place commonly called Gibson's landing on the south fork of the Bayou Pierre.

S. 2 And be it further enacted, That William Neely, Thomas White, George Wilson Humphreys, Daniel Burnet, & John McCaleb, be and they are hereby appointed commissioners, a majority of whom are hereby authorized and empowered to procure and receive titles in the name of the Justices of the County Court of the said County of Claiborne and their successors to and for the use of the said County, for two acres of land at the aforesaid landing of Samuel Gibson from the proprietor thereof.

S. 3. and be it further enacted. That the said Commissioners be, and they are, authorized and required to contract without delay, with some person properly qualified to erect thereon a Court-house, Jail, stocks, Pillory & whipping post, (in manner and form as directed in the

act, entitled "An Act to divide Jefferson County and for other purposes therein mentioned passed the 27th day of January 1802") as speedily as the nature of the work will admit, taking sufficient security from the person contracting for the due fulfilment of his contract within the time limited.

§. 4 And Whereas by the act aforesaid the sum of fifteen hundred dollars was appropriated for carrying the same into effect, be it further enacted that the said fifteen hundred dollars, be levied and collected in manner and form as therein directed, and paid into the hands of the commissioners herein before named for the purpose of carrying the act into effect.

§. 5. And be it further enacted, That if it shall appear that any contract has been made for erecting said buildings agreeably to the former act, the commissioners herein named be and they are hereby authorized to make such compromise with the parties concerned in the said contract for annulling the same, or transferring the same to the place & site,

now established as to them or a majority of them shall appear reasonable. provided that if any sum shall be stipulated to be paid to the first contractor for annulling the said contract, the Justices of the County Court of the said County of Claiborne shall make good the same by a new assessment, on their proper County, the amount whereof to be collected in the same manner as all other County taxes & paid to the said commissioners for the purpose of carrying into effect the provisions of this act.

S. 6. And be it further enacted. That the Justices of the County Court of the County aforesaid shall at their next session after the passing of this act, appoint one commissioner and one surveyor on the part of the said County, to act in concert with the commissioner and surveyor which are or may be appointed by the Justices of the County Court of Jefferson County, to ascertain and mark the division line between the two said Counties as herein described, and to make return thereof to the

next County Court of their respective Coun=
=ties, for which service they shall be enti=
=tled to receive their fees as mentioned in
the third section of the act aforesaid.

§. 7. And be it further enacted. That the site
above mentioned, at Gibson's Landing is
hereby established and declared to be the
permanent seat of Justice for the County
of Claiborne aforesaid, and the Justices of
the County Court of the said County are
hereby empowered and required to adjourn
the said County Court and all things there=
=in pending to the said seat of Justice
as soon as the court house shall be pre=
=pared for their reception, or sooner if
accomodation can be procured.

§. 8. And be it further enacted. That so much
of the act aforesaid, entitled "an act for
dividing Jefferson County and for other
purposes therein mentioned as comes within
the purview and meaning of this act, be
and the same is hereby repealed.

William Gordon Speaker
Speaker of the House of Representatives
John Ellis President of the Council
William C. C. Claiborne
Governor of the Territory of Mississippi

Approved
March the 12th 1803.

1

An Act concerning Wills and Testaments the Settlement of Intestates Estates, and the duty of Executors, Administrators and Guardians

§. 1. Be it enacted by the legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, that the Judges of the County Court of each County [illegible] nothing such County Court, [illegible] and granting letters of Administration [illegible] residents [illegible] according to [illegible] for examining and allowing [illegible] jurisdiction of all [illegible] belonging to the Court of Probate [illegible]

§. 2. And be it further enacted, [illegible] of twenty one years, of sound [illegible] within this Territory [illegible] or lives of any other [illegible] of the same by last [illegible] such last will and Testament [illegible] by some person in his or her presence [illegible] and attested by three or more respectable witnesses, [illegible] the presence of such devisor; saving, however, to the [illegible] the devises in regards, tenements or hereditaments so devised.

§. 3. And be it further enacted, that no nuncupative will shall be established unless [illegible] the last sickness of the deceased, at his or her habitation [illegible] or the space of ten days or more next preceding the time of making such will, except [illegible] taken sick from home, and die before his or her return to such habitation; nor when the value bequeathed exceeds one hundred dollars, nor shall be proved that the testator called on the bystanders present at the time of making such will, or some of them, to take notice or bear testimony that such was his or her will, or to that effect.

§ 4. And be it further enacted, That no probate of any manuscript shall be taken or allowed as necessary, or to be valid, till after the expiration of fourteen days from the time of the decease of the testator, nor till citation hath issued to call in the executors and other persons having immediately concerned, if resident in the Province, that they may appear and contest such probate, if they see cause.

§ 5. And be it further enacted, That after the expiration of six months from the time of the decease of any testator, no testimony shall be received to prove any nuncupative will, except such words, or the substance thereof, be proved to have been spoken within ten days after speaking the same.

§ 6. And be it further enacted, That all devises and bequests of real or personal estate, or any interest therein, made by any person not being a soldier or seaman, shall be void, unless the same be made in writing, signed by the testator, or some person in his presence and by his express direction, and attested by three witnesses at least.

§ 7. And be it further enacted, That the children of any testator, who shall die before the testator, or shall be living at the time of the making of any will, and not provided for therein, or shall have been omitted to be mentioned therein, shall have such share of the estate of the testator, as would have fallen to them if their father had died intestate, and such share shall be assigned to them according to the rules and directions herein before mentioned.

§ 8. And be it further enacted, That no devise of any estate shall be construed to extend to any lapsed devise, or devise to any person who shall die before the testator, unless it be such a devise as may be executed according to the intention of the testator, by the surviving children or issue of such person.

§ 9. And be it further enacted, That if any person shall be subscribing witness to a will, or any devise or bequest to make to such witness, or his wife, or any person in trust for such witness, or his wife, or any person claiming under such witness, or his wife, such devise or bequest, so far as concerns such witness, or his wife, or any person claiming under such witness, or his wife, or any person in trust for such witness, or his wife, shall be void, and such witness shall be admitted to give evidence in the matter of such will.

§ 10. And be it further enacted, That no [illegible] shall be charged upon any other estate by any will or testament, unless the same be expressed therein, or such [illegible]

2 notwithstanding be admitted as witness of the execution thereof.

§ 11. And be it further enacted. That the Widow may in all cases waive the provisions made for her in the will of her deceased husband, and claim her dower, which shall be assigned her accordingly; in which case she shall receive no part of such provision unless it appears plainly by the will that the testator intended it, in addition to her dower.

§ 12. And be it further enacted. That if any testator shall have a mansion house or known place of residence his will shall be proved in the orphans Court of the County where such mansion house or place of residence may be, but if he has no such place of residence, and lands be devised in the Will, it shall be proved in the County wherein the lands so devised are situate, or in one of them where there shall be lands so devised in several Counties; and if he has no such known place of residence and there be no lands devised, then the will may be proved either in the orphans Court of the County where the testator shall die or that wherein his Estate or the greater part thereof shall be.

§ 13. And be it further enacted. That when the subscribing witnesses to any will shall reside out of this Territory, the Court to which the probate of said will may appertain, is authorised to issue a dedimus potestatem to take the testimony of such witness in lieu of said will and receive the testimony so taken accordingly.

§ 14. And be it further enacted. That authenticated copies of Wills, proved according to the laws of any of the United States, or of any Country without the limits of the United States, and touching and concerning estates within this Territory, may be offered for, and admitted to, probate in said Courts, but such wills shall be liable to be contested and controverted in the same manner the original might have been.

§ 15. And be it further enacted. That if the Court, having jurisdiction as aforesaid, shall be informed that any person hath the last will and testament of a testator, such Court is hereby authorised to compel such person by proper process to produce the same, and all original wills, after probate thereof, shall be recorded and remain in the Register's office of the Court wherein they are respectively proved, except during such time as they may be in the supreme Court, having been removed thither for inspection by Certiorari or otherwise, after which they shall be returned into said Office.

§ 16. And be it further enacted. That when any person shall die seize of any Estate

of Inheritance in lands, tenements, or hereditaments, not devised, the same shall descend to his or her children and their descendants in equal shares, the descending of the deceased child or grand child to take the place of their deceased parent in equal shares among them; and where there shall be no children of the Intestate nor descendants of such children, then to the father and mother of the Intestate and their descendants in equal shares, the descendants of the father or mother of the Intestate to have in equal shares among them what their deceased parent would have had if living; and where there shall be no children or descendants of such children, then to the father or mother or both of them or any of them, then to the father if living, if not, to the mother of the Intestate; and if there be no children of the Intestate or descendants of such children, and no brothers or sisters or descendants of them, nor father or mother, then such Estate shall descend in equal shares to the next of kin to the Intestate, in equal degree, computing by the rule of the civil law; and there shall be no representation among collaterals except with the descendants of the brothers and sisters of the Intestate; and there shall in no case be a distinction between the kindred of the whole and half blood, except the kindred of the whole blood in equal degree shall be preferred to the kindred of the half blood in the same degree; saving to the Widow of the Intestate in all cases her dower; and where there shall be no children of such Intestate nor descendants of them, then the widow shall have as her own one half of such before mentioned Estate of her deceased husband.

§. 17. And be it further enacted, that no person dying by his or her own act or children, shall afterwards in coming to such succession, such child or children, if recognized by him, shall be thereby legitimate.

§. 18. And be it further enacted, that the Registrar of the Administration of the Estate of any intestate, and the taking and determining the right of the same shall belong to the Registry Court of the County in which the Intestate had at the time of his or her death a known place of residence, and if there be no such known place of residence, then to the Registry Court of the County in which the Intestate shall die; and the Registrar in his order Estate or the greatest share thereof shall by and the Court to bring it first into Registry, with a power to bring into and the Registrar otherwise than by virtue of this act, shall have the same jurisdiction, power and authority in case of the decedent's estate in every respect as if

it were situate in the proper County [illegible]

§. 19. And be it further enacted, That if any person or persons nominated as the Executor named in any testament or renounce the Executorship, or refuse or neglect for the space of forty days after the death of the testator to exhibit such testament for probate, then administration of the goods and chattels, rights and credits of such Intestate, or of such testator with the testament annexed, shall be granted to the widow or the next of kin of such intestate or testator or to some of them; and in case of their and each of their refusal, then to a principal creditor or creditors of such intestate or testator; and if none of them will accept thereof, then to such other proper person or persons as will accept the same.

§. 20. And be it further enacted, That one of the Justices of each County Court in this Territory shall be appointed and commissioned by the Governor, Chief Justice of the orphans Court of the County in which such Justice resides, whose duty it shall be, besides presiding in the orphans Court in term time, and who is hereby empowered, to take, receive and audit all accounts of Executors, adminis=trators and guardians; to receive wills exhibited for probate, applications for administration, inventories and appraisements, and to order such Inventories and appraisements duly made and sworn to, to be recorded; to appoint guard=ians to minors, at their own Elections; to cause to be issued all citations and other necessary process returnable to the next term of said Court, and whenever he may deem it necessary to appoint an administrator or Administrators ad colligenda bona defuncti; and the said chief Justice, after examining and auditing such accounts and causing them to be properly stated, shall report the same for allowance to the next term of said orphans Court, the Executor, administra=tor or guardian giving at least forty days notice of his intention of having such account presented to said Court for allowance at such term, by putting up notices thereof in three of the most public places in his County, or advertising the same for three weeks at least in some public newspaper in this Territory, which notice and as the said chief Justice shall have directed, and thereupon due proof of notice as aforesaid, and no exception being made to the report of the chief Justice, may decree and allow the account as stated, but if any person interested in it therein shall object to said account, shall [illegible] make exception to the report, the Court shall [illegible] proceed to hear the proofs and allegations, and correct or amend

the mistakes or errors in the accounts or vouchers, or for the same to audit, and shall examine and state the accounts after hearing the parties and witnesses, and make report to the next or some subsequent term of said Court for confirmation and allowance or disallowance.

§ 21. And be it further enacted, that said Chief Justice, which accounts shall be kept by the Registers of said Orphan's Court, as aforesaid, without cost, or charge, or fee, be entitled to be called in vacation the many small accounts, or business for the first sale of wills or for letters of administration or guardianship, in the order and to priority of time, such accounts and exhibits or application and vouchers, to the said accounts may be offered and application heard and determined at the next term of said Court, and shall moreover direct all necessary notices and citations to those principally interested (if in the country) to appear and show cause at the next term why such application should not be granted, Provided Wills may be proved and letters of administration and guardianship may be granted when an application has been made to the Chief Justice in vacation.

§ 22. And be it further enacted, that the Clerk of the County Court of Prince Georges County shall ex officio be Register of the Orphan's Court of the same County, and shall take and subscribe an oath or affirmation in open Court for the faithful discharge of the duties of his office; and it shall be the duty of said Register to keep and preserve all records, files, papers and proceedings of said Court as an Orphan's Court, separate and distinct from the records, files and proceedings of the County Court, to record all last wills and testaments duly proved and admitted, and accounts finally allowed, all inventories and appraisements duly made and returned, to issue all such citations, subpoenas and other processes (in the name of Court) directed and commanded by the Court in term time or the Chief Justice in vacation, and to do and perform all those things which appertain to the office of Register of said Orphan's Court, and said Register's office shall be regulated with the Clerk of the Court in term time and of said Chief Justice in vacation.

§ 23. And be it further enacted, that letters testamentary, letters of administration and letters of guardianship shall be issued in the name of the Chief Justice and signed by the Register, and although bearing teste and date in the name of the Chief Justice

of the respective lands, tenements, hereditaments taken and remaining and all other lands therein mentioned shall be made liable to such chief Justice and the receivers in office.

§. 24. And be it further enacted. That when any person shall die possessed of goods chattels or personal Estate, not bequeathed, the same shall descend to and be distributed among his or her kin in the same way and manner as real Estates not devised descend by this act. Provided that the goods chattels or personal Estate of any person deceased whether testator or Intestate shall stand chargeable with the payment of all the just debts and funeral expences of the deceased, and charges of settling said Estate, and after the payment thereof, the surplusage in case of intestacy shall be decreed by the Orphans Court one third part thereof to the widow of the deceased person, unless the intestate died without children or descendants of them in which case she shall be decreed one half thereof forever, and the lands, tenements and hereditaments of the testator or intestate shall stand chargeable with all the debts of the deceased contracted after the passing of this act, over and above what the personal Estate shall be sufficient to pay as aforesaid, saving to the widow her dower in all cases as is before provided.

§. 25. And be it further enacted. That when any Executor or administrator shall discover or believe that the personal Estate of his testator or Intestate is insufficient to pay the debts of the deceased, then it shall be the duty of such Executor or administrator as soon as may be, to make and exhibit on oath or affirmation a just and true account of the said personal Estate and debts as far as he can discover the same to the Orphans Court or Chief Justice thereof and the said Court or Chief Justice shall thereupon cause a citation to issue, directing all persons interested in such lands, tenements and hereditaments, to appear before the Orphans Court at a certain day therein to be named and not less than forty days after the time of issuing such citation, to shew cause why so much of said lands, tenements or hereditaments of said testator or Intestate, should not be sold as will be sufficient to pay his or her debts or the balance thereof as the case may require, which said citation shall immediately thereafter be set up in

three of the most public places in the County in which said lands, tenements or hereditaments lie, for the space of thirty days and be published for the same term of time in one of the public newspapers in this Province.

§. 26. And be it further enacted. That the said orphans court shall at the time specified in said citation, or at such other time as they may then appoint, hear and examine the allegations and proofs of the said Executors or administrators and of other persons interested; and if said Court on such examination shall find that the personal Estate of such testator or intestate is not sufficient to pay his or her debts, the said Court shall order and direct the Executors or administrators to sell the whole, if necessary, of the lands, tenements or hereditaments of the said testator or intestate for the payment of his or her debts, or so much thereof as will be sufficient for that purpose, and when so sold only, the said order shall specify what part, parts, or whole, and how, and lands are so situate or circumstanced that no part thereof cannot be sold without prejudice to the heirs or devisees, the said Court may at their discretion order the whole or a greater part thereof than is necessary to pay such debts to be sold, and the surplus money arising from such sale shall be distributed among the heirs or devisees according to the law of descents in former and the same in the latter case, and the heirs or devisees whose lands, tenements or hereditaments so descending or devised, shall be sold as aforesaid for the payment of the debts of the testator or intestate, may compel all others claiming or holding under the testator or intestate to contribute in proportion to their respective interests so as to equalize the burden or loss.

§. 27. And be it further enacted. That the Executor or administrator who may be ordered to sell any lands, tenements or hereditaments of any testator or intestate, shall give notice by advertisement set up at three or more public places in the County, where the lands, tenements or hereditaments are situate, at the time and place fixing the same, at least twelve days before the time of sale, and be building

such advertisements in one of the Public Newspapers in this Territory, for three months successively before such day of sale, and shall at the time and place aforesaid sell said lands, tenements, and hereditaments for sale at public vendue upon a credit of twelve months from the day of sale, and strike off the same to the highest bidder who shall give bond with satisfactory security for the amount thereof and the Executor or administrator making such sale, shall make report in writing of all the proceedings thereon to the next orphan's Court after such sale, Provided said Executor or administrator may adjourn said sale from time to time not exceeding forty days in the whole.

§. 28. And be it further enacted. That the said Executor or administrator shall and is hereby authorized to make a deed or deeds to the purchaser or purchasers for the lands, tenements and hereditaments sold; which deed or deeds shall vest in such purchaser or purchasers as good and perfect an Estate in the premises thereon mentioned as the testator or intestate were seized of or entitled to at the time of making said order of sale by the said orphan's Court.

§. 29. And be it further enacted. That when the Estate both real and personal of any person deceased shall be insolvent or insufficient to pay all just debts which the deceased owed, the said Estate both real and personal shall be distributed to and among all the Creditors in proportion to the sums to them respectively due and owing; saving that debts due for the last sickness and necessary funeral expenses shall be received and be first paid, and the Executor or administrator shall exhibit to the orphan's Court or Chancellor's Court before any debts paid to any Creditor except as aforesaid an account and a balance of the said estate twenty fifth section of this act, including the lands, tenements and hereditaments either legal or equitable, and if it appears to said Court that such Estate is insufficient to satisfy all the debts, tenements and hereditaments of the testator or intestate, it shall be the duty of the Chancellor or Orphan's Court to direct the payment of the debts according to the priority of the

and said commissioners, shall cause the time and place of their meeting to attend the creditors for receiving and examining their claims, to be made known, by causing intelligence thereof to be posted up in such public places and published in such newspapers as the said Orphans Court or Chief Justice thereof shall direct, and six months or in such further time (as the circumstances of the Estate may require) not exceeding eighteen months shall be allowed by said Court to the creditors for bringing in and proving their claims before said commissioners; at the end of which limited time said commissioners shall make their report and present on oath a list of all the claims that shall have been laid before them with the sums they shall allow on each respective claim, to the said Orphans Court, and said Court shall order just recompence to said commissioners out of the deceased's Estate, and the debts due by the last sickness and necessary funeral expences being first deducted the said Court shall order the residue and remainder of the Estate both real and personal (the real Estate being sold according to law) to be paid and distributed by the Executor or administrator to and among the creditors who shall have made out their claims with the commissioners as aforesaid in proportion to the sums unto them respectively due and owing; Provided that notwithstanding the report of any commissioner the creditor whose claim is wholly or in part rejected or any Executor or administrator, who may be dissatisfied with such report on a particular claim, may for good and sufficient cause shewn by said Creditor, Executor or administrator to the said orphans Court, have said claim referred by said Court to referees, whose report and award thereon, returned to the next term of said Court and approved of shall be final and conclusive, and to the end that the Executor or administrator may have opportunity to ascertain the situation of the Estate of the testator or intestate no suit or action shall be commenced or sustained against such Executor or administrator in such capacity till after the expiration of six months from the time of proving the will of the testator or granting letters of administration

on the Estate of the deceased; nor after the Estate of the testator or Intestate be represented insolvent; excepting however in all cases, actions for debts due for the deceased's last sickness and funeral expences, (and excepting also, that if the Executor or administrator having objections to the claim on which any action, other than those last mentioned, may be brought, shall consent to have such claim settled by action at law in which case the judgment of the Court shall determine the claim and be reported by the commissioners as such, and every Executor or administrator after final apportionment of such distribution among the creditors of the testator or Intestate as aforesaid, shall be liable to the creditors for their respective shares in such distribution, and if any creditor shall not make out his claim with the Commissioners within the time of their commission or before referees or at common law in manner this Act provides, he shall be forever barred of his debt or demand unless such creditor shall find other Estate of the deceased not inventoried or accounted for by the Executor or administrator before distribution. +

§ 30. And be it further enacted. That the commissioners appointed to receive and examine the claims of the creditors to the estate of any person deceased when represented insolvent, are hereby authorised and empowered either jointly or a majority of them, to examine on oath or affirmation any creditor touching the truth of his or her claim, and may thereupon enquire of such creditor the truth of any writing, demand or the charges in any account exhibited as a claim against such insolvent estate, and whether the same and every part thereof remains actually due and unpaid, and may make such other questions relative thereto, as shall be material and tending to discover the truth of such claim, and the said commissioners, or either of them, are hereby authorised and empowered to administer such oath or affirmation, and if any person who shall have taken such oath or affirmation, the same having been duly administered as aforesaid, shall thereupon wilfully and corruptly make any false answer or answers to any question or questions, material to the determination of the truth of the claim, in proof of which such oath or affirmation shall have been taken, and shall be thereof duly convicted, he or she so offending shall be adjudged guilty of wilful and corrupt perjury, and liable to the pains and penalties thereof.

§. 31. And be it further enacted, that the Ordinaries of the respective Counties of this Territory and every of them, shall upon their respective granting and committing of administration of the goods and chattels of persons dying intestate, take of the respective person or persons to whom such administration shall be granted, sufficient bonds with two or more able sureties to the Chief Justice of said Court and his successors in office, in such penalty as the said Court shall deem reasonable, respect being had to the value of the Estate, with condition in form and manner following, to wit, The Condition of this obligation is such that if the above bound A B administrator of all and singular the goods, chattels rights and credits of C D, deceased, do make or cause to be made a true and perfect Inventory of all and singular the goods chattels and credits of the said deceased, which have or shall come to the hands possession or knowledge of the said A B. or into the hands or possession of any other person or persons for the said A B. and the same so made do exhibit or cause to be exhibited into the register's office of the Ordinary Court of the County of at or before the expiration of calendar months from the date of the above written obligation, and the same goods, chattels and credits and all other goods, chattels and credits of the said deceased at the time of his death which at any time after come to the hands or possession of the said A B. or into the hands or possession of any other person or persons for the said A B. do well and truly administer according to law, and further do make or cause to be made a just and true account of his administration within calendar months from the date of the above written obligation, and all the rest and residue of the said goods, chattels and credits which shall be found remaining upon the account of said administration, the same being first examined and allowed by the Ordinary Court of the County aforesaid, shall deliver and pay unto such person or persons respectively as are or shall be by law entitled to receive the same, and if it shall hereafter appear that any last will and testament was made by the said deceased, and the Executor or Executors therein named or any other person or persons do exhibit the same into the said Court, making request to have it allowed and approved, the said A B being thereunto required, do render and deliver the said letters of administration (upon probate of such testament being first had and made) to the said Court,

then the above obligation to be void, otherwise to be and remain in full force and virtue.

§. 32. And be it further enacted. That the like bonds incited to the nature of the respective cases, shall be given by administrators durante minore ætate, durante absentia, pendente lite, cum testamento annexo, or by a person other name or description they may be known and distinguished.

§. 33. And be it further enacted. That in case any such bond shall become forfeited, it shall and may be lawful for the Chief Justice of the Orphan's Court to cause the same to be prosecuted at the request of any party grieved by such forfeiture, and it shall not become void upon the first recovery, but may be prosecuted from time to time at the request of any party grieved until the whole penalty be recovered thereon, and the monies recovered upon such bond shall be applied towards making good the damages sustained by the not performing the Condition thereof in such manner as the Orphan's Court by their sentence or decree shall direct.

§. 34. And be it further enacted. That said Orphan's Court shall have full power when letters of administration shall be granted upon insufficient security to order and direct such administrators to give further and sufficient security by bond in the usual form, and if it shall appear upon examination that any administrator hath embezzled, wasted or misapplied all or any part of the deceased's Estate, or shall neglect or refuse to give bond with security as aforesaid, the said Court may forthwith revoke or repeal the letters of administration and thereupon grant letters of administration to such person or persons having right thereto as will give bond in manner and form specified, who may have action of trover, detinue, account and the rest to for such goods or chattels as come to the possession of the former administrators, and withheld, wasted, embezzled, detained or misapplied by any of them, and no satisfaction made for the same.

§. 35. And be it further enacted. That when any Executor or Executors shall reside without the limits of this Province, at the time of taking the trust of Executorship, such Executor or Executors shall give bond and security for the faithfull discharge of said trust in like manner as administrators cum testamento annexo, and when it shall appear to the Orphan's Court that any Executor is likely to prove insolvent, said Court shall require such Executor to give bond with security as last aforesaid, and if the Executor or Executors in either

of the cases aforesaid shall refuse or neglect to give such bond and security, or if any Executor of any last will and testament or administrator of an Intestate Estate residing out of this Territory at the time of taking that trust, or afterwards removing out of said Territory, shall refuse or neglect after due Notice from the Orphans Court to render his or their accounts and make settlement of such Estate with creditors, legatees or heirs or their legal representatives, or if any Executor or administrator shall become insane or if any administrator becomes otherwise incapable of, or evidently unsuitable to discharge the trust reposed in him, the said Orphans Court are authorised and impowered in each and every of said cases mentioned in this section, to grant letters of administration with the will annexed or otherwise as the case may require to such person or persons as may be entitled to the same and as to the said Court shall seem meet, and the administrator thus appointed shall have the same power and authority to administer the Estate of the deceased not administered upon by such former Executor or administrator and be subject to the same duties in as full and ample a manner as if the Executor or administrator so removed or residing out of this Territory as aforesaid were actually dead.

§. 36. And be it further enacted. that when two or more have letters of administration granted to them of any intestates Estate and one or more of them take all or the greatest part of such Estate and refuse to pay the debts or funeral Expences of such Intestate, or refuse to account with the other administrator in such case the administrator so aggrieved may have his action of account against the other administrator or administrators and recover such proportionable share of such Estate, as shall belong to him, and any Executor being a residuary legatee may have an action of account against his Co-Executor or Executors and recover his part of the Estate in the hands of such coexecutor or Executors and any other residuary legatee may have like remedy against the Executors, and any person having a legacy bequeathed in any last will and testament may sue for and recover the same at common Law.

§. 37. And be it further enacted. that when any person by last will and testament shall devise his or her real Estate or any part thereof to two or more devisees

not ascertaining the metes and bounds of each devisee's share, any of whom being under age and their shares undivided, such devisees may apply to the Orphan's Court of the County in which said last will and testament is proved and recorded, and the said Court on application of any one of said devisees may order a division thereof to be made agreeably to the true intent and meaning of said last will and testament; and each devisee's share shall be ascertained by three or five indifferent free-holders appointed by the Court, and a report made thereon by them or a majority of them under their hands and seals to the next Orphan's Court, after such division shall be made, such report being approved by said Court, and entered on the records thereof shall be conclusive to all parties concerned, and when the real Estate of any person dying Intestate shall descend to two or more children or other heirs of such intestate one or more of whom being under age the said Court on application may order and direct a division of such real Estate agreeably to the law of descents the metes and bounds of each heir's share to be ascertained by three or five indifferent free-holders appointed as aforesaid, and whose report or that of a majority of them returned approved and recorded as aforesaid in case of devises, shall be conclusive on all parties concerned, Provided that in each case the report of said free-holders shall be returned under oath, and Provided also that the devisees or heirs in their Territory or the guardians of such as are under age not applying for such division shall have such notice of the time and place of the meeting of said free-holders for the purpose of making said division as the Court shall direct.

S. 38. And be it further enacted. That every orphan's Court appointing a guardian to a minor, or Chief Justice thereof appointing a guardian to a minor obliged to chuse one Election, shall take bond of such guardian with good securities and in a sufficient sum for the faithful execution of his office and trust.

S. 39. And be it further enacted. That every guardian in arrearage or other guardian shall within three months after his authority and certificate of such office, deliver into the office of the Register of the Orphans Court

an Inventory on oath of all the Estate real and personal which he shall have received or taken possession of, to be entered of record, and shall exhibit once in every year and oftener if thereunto lawfully required, an account of the product of said Estate, of the sale and disposition of such product, and disbursements, which accounts being examined and audited by the Chief Justice in manner of Executors or administrators accounts, and reported fairly stated and supported by vouchers and approved of by the Court, shall be recorded in the register's office.

§. 40. And be it further enacted. That any guardian who shall neglect in such Inventory, or render such account shall by order of the Orphans Court to which he is amenable be summoned, and if he remain in default, compelled to perform his duty or be displaced, and the said Court may for any good and sufficient cause displace a guardian, giving such guardian fourteen days previous notice by citation to appear and shew cause why he should not be displaced.

§. 41. And be it further enacted. That the Orphan's Court when they at any time shall know or have cause to suspect that the securities of a guardian or any of them are insufficient or doubtful, they may require and compel such guardian to give additional security or sureties, and if he refuses or neglects so to do may displace him.

§. 42. And be it further enacted. That if the personal Estate and rents and profits of the real Estate be not sufficient for the maintenance and Education of the ward, the Orphan's Court on full investigation thereof may from time to time order the guardian to sell such parts of the ward's lands, tenements and hereditaments as they shall deem and judge adequate to his or her maintenance and education.

§. 43. And be it further enacted. That the lands, tenements and hereditaments so ordered to be sold, shall be advertised by the guardian in three of the most public places in the County and in some public newspaper in this Territory, for the space of forty days previous to the time appointed for the sale thereof and the guardian at the time and place so advertised, shall sell the same at public vendue, upon a credit of twelve months

after the day aforesaid to the highest bidder who shall give bond with satisfactory security for the amount thereof, and shall make report in writing of his proceedings thereon to the next orphans Court after such sale; Provided that the said guardian may adjourn the said sale from time to time at his discretion, and the said guardian shall make a deed to the purchaser for the lands, tenements and hereditaments so sold which deed shall vest in said purchaser as good and perfect an Estate in the premises therein mentioned as the ward was seized of or entitled to, at the time of making said order.

§. 44. And be it further enacted. That the Orphans Court are hereby authorised and empowered, within their respective Counties, on request made by the friends or relations of any Idiot, Lunatic, or person non compos mentis or by the overseer of the poor for the district in which such Idiot, lunatic or person non compos mentis resides or is an Inhabitant, by writ to direct the sheriff of said County to summon twelve good, lawful men of the County, who might be witnesses of the premises or such thereof, to make inquisition thereof on oath; and if the person said to be an Idiot, lunatic or non compos mentis shall be adjudged by such Inquisition or the major part of them to be incapable to take care of himself or herself and they shall certify their name under their hands and seals to the Orphans Court, the said Court shall appoint some suitable person or persons to be guardian or guardians to such Idiot, lunatic or non compos mentis, directing and impowering such guardian or guardians to take care of the person and Estate both real and personal of such Idiot, lunatic or non compos mentis, and the said guardian or guardians shall make a true and perfect Inventory of said Estate and return the same, within the same time and account with the Orphans Court as often and in the same manner as according to minors are bound to do by law; and shall give bond and security in like manner, and said Court shall have the same power and Controul over such guardian or guardians to all intents and purposes as over guardians to minors.

§. 45. And be it further enacted. That it shall be the duty of such Guardian

or guardians to improve frugally and without waste or distruction the Estate of the Idiot, lunatic or person non compos mentis, and apply the income and profits thereof to the comfortable maintenance and support of such Idiot, lunatic or non compos mentis and of his house hold or family (if any there be) and said guardian or guardians are hereby impowered to collect, sue for and recover all just debts due to said Idiot, lunatic or non compos mentis and also shall be subject to the payment of all just debts owing by such person which were contracted when he or she was of sound mind and before his or her distraction or lunacy, out of their personal Estate or if that be insufficient, then out of the real Estate, in such way and manner as Executors and administrators may by law discharge the debts of deceased persons, when the personal Estate of such deceased is insufficient, and said guardian and guardians shall have the same power and authority by order of the Orphans Court to sell the lands, tenements and hereditaments of any lunatic, Idiot, or non-compos mentis for the purpose aforesaid as by this act, is given to Executors and administrators in similar cases, observing the same rules and restrictions; and the deed or deeds of conveyance of such guardian or guardians shall have the same force, effect and validity to all intents and purposes.

§. 46. And be it further enacted, that if any such Idiot, lunatic, or non compos mentis shall be restored to the use of his or her reason and sanity of mind (and on application the same made to appear to the Orphans Court who shall judge thereof) the residue and remainder of his or her Estate both real and personal shall be returned and delivered to him or her, the guardian or guardians having such reasonable allowance for their charges and trouble as the court shall order.

§. 47. And be it further enacted, that every Executor, administrator or guardian empowered by the Orphans Court or supreme Court in chancery to sell the lands, tenements and hereditaments or any part thereof of any testator, intestate, ward, Idiot, lunatic, or person

non compos mentis, shall before he or she obtain the order of sale from the Office of Register or Clerk, enter into bond with sufficient sureties to the Chief Justice of the Orphan's Court of the proper County, that he or she will observe the rules and directions of law for the sale of real Estates by Executors, administrators or guardians (as the case may be) and that he or she will well and truly account for the proceeds of said sale, and that the same shall be disposed of agreeably to the rules of law.

§. 48. And be it further enacted, That every Orphan's Court granting letters testamentary or letters of administration, shall nominate and by warrant appoint three or more judicious and discreet persons appraisers of the Estate of the decedent, who shall return their appraisement on oath in such time as the Court shall appoint of all the personal estate of such decedent to them shewn, which appraisement if subscribed and sworn to by the Executor or administrator may be considered as an Inventory of such part of the Estate as had therefore come to his hands; and Inventories (which the Executors or Administrators in all cases shall return within the time limited by the Court, and appraisements, may be given in evidence in any suit by or against the Executor or administrator; but shall not be conclusive for or against him if it be shewn that the Estate was really worth, or was bona fide sold for more or less than the appraisement.

§. 49. And be it further enacted, That the Chief Justice of the Orphan's Court in each and every County shall have power and authority, and is hereby authorised, as often as he may deem it necessary and expedient, to call and cause to be held a special Orphan's Court, for the purpose of granting letters of administration on any intestate's estate, or to take the probate of and grant letters testamentary on the will of any testator, and for that purpose said Chief Justice may issue his summons to any two or more Justices requiring their attendance at the usual place of holding the said Orphan's Court, at least seven days

before the time by him appointed for holding such special court.

§.50. And be it further enacted, That when the Estate of any testator or intestate shall be represented insolvent and shall not be sufficient both real and personal to pay the just debts, the widow of such testator or intestate shall (though there be no children or descendants to them of such testator or intestate) be endowed with one third only of the lands, tenements and hereditaments of her deceased husband, any thing in this act to the contrary notwithstanding.

§.51. And be it further enacted. That the sale and conveyance of lands tenements and hereditaments directed or devised to be sold by any last will and testament, shall and may be made by the Executors or such of them as undertake the execution of the will, if no other person be therein appointed for that purpose, or if the person so appointed shall refuse to perform the trust or die before he shall have completed it.

§.52. And be it further enacted, That within five years from the time of the first probate of any will, any person interested in said will, may by bill in chancery contest the validity of the same, — and the court of Chancery may thereupon direct an issue or issues in fact to be tried by a jury as in other cases, and in all such trials the certificate of the oath of the witnesses at the time

of

of taking the original probate shall be admitted as evidence to the jury to have such weight as they may think it deserves; but after the expiration of said five years, the original probate of any Will shall be conclusive and binding on all parties concerned; saving however to infants, femes covert, persons non compos mentis or absent from the Territory the like period of five years from and after the removal of their respective disabilities.

§53. And be it further enacted, That if any person or persons shall be aggrieved by a definitive sentence or Judgment or final decree of said Orphan's Court, it shall be lawful for the party so aggrieved to appeal therefrom to the next term of the Supreme Court in Chancery, which said appeal the said Orphan's Court shall allow, upon the appellant giving bond with good sufficient security, approved of by said Court and in such sum as they shall direct, to the Chief Justice thereof, conditioned that the appellant shall prosecute said appeal to effect and perform the sentence Judgment or Decree the said Supreme Court shall make therein, in case the cause be decided against him or her, which bond may be put in suit in the name of said Chief Justice, and the amount recovered thereon applied as said Orphan's Court shall direct, among those injured by breach of the condition thereof. And the said Supreme Court may at their discretion on such appeal direct an issue or issues in fact to be made

up and tried as in other cases, and the Judgment sentence or decree which the said Supreme Court may render on any such appeal shall be certified to the Orphan's Court from which such appeal was made and thereupon entered on the records of said Orphan's Court, and made the Judgment sentence or decree thereof.

William Gordon Forman
Speaker of the House of Representatives
John Ellis President
of the Council

Approved March the 12th 1813. —

William C. C. Claiborne.
Governor of the Mississippi
Territory. —

An act concerning wills and testaments the settlement of intestates' Estates and the duty of executors, administrators and guardians.

Originated in the House of Representatives.

Samuel [illegible] Clerk.

Act # 25

An Act for the suppression of vice and immorality

5

Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority thereof, that any person or persons, being of the age of fourteen years, or upwards, offending in the premises, shall for every offence forfeit and pay the sum of two dollars; and that no merchant or shopkeeper, or other person keeping a grocery store, or dispose of any liquors, or other goods, or chattels, on the first day of the week, commonly called Sunday, or sell or barter same upon pain, that every person so offending shall forfeit and pay the sum of twenty dollars, for every such offence; and if any person offending in the premises aforesaid, shall be thereof convicted before any Justice of the peace, for the county wherein the offence shall have been committed, upon the view of the said Justice, or confession of

the party offending, or proof of any witness, or witnesses upon oath or affirmation, then the said Justice before whom, such correction shall be had, shall direct and send his warrant, under his hand and seal to some constable of the County where the offence shall have been committed, commanding him to levy the said forfeitures, and penalties by distress and sale of the goods and chattels of such offenders, and in case no such distress can be had, then every such offender shall by a warrent under the hand and seal of the said Justice, be set publickly in the stocks for any space of time not exceeding four hours.

§. 2. And be it further enacted. That no Waggoner, carter, drayman, drover, butcher, or any of his or their slaves or servants shall ply or travel, with his or their waggons, carts or drays, or shall load or unload any goods, wares, merchandize, or produce, or drive cattle, sheep or swine in any part of this Territory on the first day of the week called sunday, under the penalty of five dollars to be levied, recovered and applied, in manner and form as is directed by this act.

§. 3. And be it further enacted. That no person or persons, upon the first day of the week called sunday shall serve or execute or cause to be served or executed, any writ, process, warrant, order, judgment or decree (except in criminal cases, or for breach of

of the peace) but that the service of every such writ, process, order, warrant, judgment or decree, shall be void to all intents and purposes whatsoever and the person or persons so serving or executing the same shall be as liable to the suit of the party aggrieved and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree; Provided, that if information shall be made by the oaths of two reputable persons to any Justice of the peace or magistrate of any Corporate Town, that they have good reason to believe that any person liable to have any such process warrant, order judgment or decree, served upon him, intends to withdraw himself and escape from this Territory, under cover and protection of the said first day of the week commonly called Sunday; in that case it shall be lawful for any officer duly authorised (being furnished with a certificate of such information upon oath as aforesaid, under the hand of the Justice of the peace or magistrate as aforesaid) to serve or execute such process, warrant, order, judgment or decree on the said first day of the week, which shall be as valid and effectually done to all legal intents and purposes, as if the same had been done on any other day of the week.

§. 4. And be it further enacted. That if any person or persons shall profanely swear or curse, in the hearing of any Justice or shall be convicted of profanely cursing or swearing by the oath of one or more Witnesses, or confession of the Party before any Justice, every such offender shall forfeit and pay for every such offence the sum of fifty cents

§. 5. And be it further enacted. That every person convicted of drunkenness, by view of any Justice of the peace, confession of the Party, or oath of one or more witness or witnesses, such person so convicted, shall for every such offence forfeit and pay one dollar.

§. 6. And be it further enacted. That if any person or persons whatsoever shall shew forth, exhibit, act, represent or perform or cause to be shewn forth, acted, represented, or performed any interludes, farces or plays of any kind, or any games, tricks, juggling, slight of hand, or feats of dexterity, and agility of body, or any bear-baiting or bull-baiting or any such like shews or exhibitions whatsoever, on the said first-day of the week, every person so offending and thereof convicted before any Justice of the peace of the County where the offence shall have been committed, shall for every such offence forfeit and pay the sum of fifteen dollars.

§. 7. And be it further enacted. That if any person or persons whatsoever, shall wilfully and of purpose, disquiet, interrupt or disturb any assembly of people,

met for religious worship, either by making a noise, or by rude or indecent behaviour, or profane discourse, whether within the place of worship, or out of it, so near the same as to disturb the order and solemnity of the meeting; then every person so offending and being thereof convicted before any Justice of the Peace of the said County, shall for every such offence forfeit and pay the sum of five dollars.

§. 8. And be it further enacted. That in case any person who shall be convicted of any of the offences, mentioned in the fourth, fifth, sixth and seventh sections of this act, shall not immediately pay down the respective sums so forfeited, with the charges of such conviction, then the said Justice before whom such conviction shall be had, shall direct and send his warrant under his hand and seal to some constable of the County where the offence shall have been committed, commanding him to levy the said forfeitures or penalties together with the charges by distress and sale of the goods and chattels of such offenders, and in case no such distress, can be had, then every such offender shall by warrant under the hand and seal of the said Justice be set publicklyly in the stocks for any space of time not exceeding four hours.

§. 9. And be it further enacted. That every Justice of the Peace shall immediately on information given upon oath or affirmation of any person

whatsoever cause the offender or offenders against this act to appear before him and upon such information being proved as aforesaid shall convict such offender and offenders in such manner as in and by this act is prescribed.

S. 10. And be it further enacted. That it shall be the duty of the justices before whom such convictions shall be had to take and receive all such forfeitures and fines, as may become due by virtue of this act, and pay one half to the informer and the other half to the Treasurer of the County wherein the offence was committed for the use of the poor thereof.

S. 11. And be it further enacted. That all and every justice and justices of the peace for the County, wherein any such offence shall be committed, may and they are hereby respectively authorised and required to put this act into execution, against any person or persons within their respective jurisdictions.

S. 12. And be it further enacted. That no person shall be prosecuted for any offence against this act unless the same be proved or prosecuted within ten days after the commission of such offence.

William Gordon Foreman
Speaker of the House of Representatives

John Ellis President
of the Council

William C. C. Claiborne
Governor of the Mississippi Territory

Approved March the 12th, 1803.

An Act to alter and appoint the time of the next meeting of the General Assembly of this Territory, and for other purposes therein mentioned.

§. 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, That the session of the General Assembly of this Territory shall commence on the first monday in the month of October next ensuing any law to the contrary notwithstanding.

§. 2. Be it further enacted, that in the addition to the compensation formerly allowed to the Serjeant at Arms, he shall for his services during this present session, and all future sessions receive fifty cents per diem.

§. 3. And it is further enacted, That the governor be and he is hereby authorized and requested to take such measures for the printing ~~for the printing~~ twenty five copies of the Journals of the present sessions of the Legislature as he may deem expedient to be distributed as follows (viz) two copies for himself, one for the Secretary of the Territory one for each member of both Houses, one for the clerk of the House of Representatives one for the secretary of the Council, and two to be in each House for the general use of the members. And the expence of such printing shall be paid by a Warrant from the Governor out of any monies in the Territorial Treasury not otherwise appropriated. And it shall be the duty of the Clerk

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of the House of Representatives and the Secretary of the Council to furnish the Governor as soon as may be without loss of time, with correct copies of the journals of their respective Houses, and it shall also be their duty to attend to the printing of the same and to examine the proof sheets, for which service they shall receive such compensation as the Governor may deem reasonable.

William Gordon Foreman
President of the House of Representatives

John Ellis President
of the Council
William C. C. Claiborne
Governor of the State of Mississippi
Territory

Approved March the 12th 1813

An Act appointing and authorizing Commissioners to report to the [illegible] Assembly upon the most advantageous and convenient position for a permanent seat of Justice for the County of Adams.

§ 1 Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened and it is hereby enacted by the authority of the same. That Thomas Wilkins, Abijah Hunt, Isaac Gaillard, John Bowles Adam Tooley Benjamin Farar, and Israel Lucas be and they are hereby appointed commissioners; and said commissioners or a majority of them are hereby directed by all ways and means within their power to inform themselves respecting the most advantagious and convenient position for a permanent seat of Justice for the County of Adams, and the said commissioners are hereby required to report their opinion touching the premises to the General Assembly at their next Sessions.

§ 2 And be it further enacted, That it shall be the duty of the said Commissioners to assemble together on the first Monday in June next at the Courthouse of the County of Adams then and there to confer & consult with each other upon the most proper means of carrying into effect the directions of this act.

William Weekes Speaker
of the House of Representatives
[illegible] President of the Council

Julian C. C. Claiborne
Governor of the Mississippi
Territory.

Concurring, and
with the Commission to
report to the Constitution, that
the most convenient place for a permanent
seat of justice for the County of
Adams.

Originated in the House of Representatives
Samuel Sidney Blakely Clk.

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